REPORT

ON

Indian Constitutional Reforms



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INTRODUCTION.

Having now completed the inquiry which we were directed to undertake in the decision announced in the House of Commons eight months ago, we beg to lay before His Majesty's Government this report of the conclusions to which we have come, touching the constitutional changes which are desirable in India, and to ask their assent to its publication.

The Report.

2. We have a preliminary point to make. It has been asked why the Secretary of State and the Government of India are devoting time and energies to the task of domestic reconstruction, when the whole activities of the authorities and the country ought to be bent to the supreme purpose of the war. Our report will, we hope, show how strong in themselves are the reasons for not postponing the consideration of reforms. We can add that the calm atmosphere in which we hoped that our inquiry might be conducted has been attained; and this has in itself been of no small assistance to the Government. It would be easy to rebut the criticism by a specific recital of the part that India has played in the war. But we wish to avoid any appearance of either apology or glorification; and therefore we prefer to meet it simply by the formal and definite assurance, made with a full sense of responsibility, that the energies of the Government have at no time been diverted from the war by other considerations however important.

The inquiry has not affected war effort.

3. We have also briefly to explain the means which we took to comply with the direction that there should be a free and informal exchange of opinion between those in authority at Home and in India. As soon as the announcement was made in the House of Commons, the Government of India in Simla and a Committee of the India Office in London devoted themselves to the preliminary consideration of the problems involved. The Secretary of State and those who accompanied him from England reached India in November. We began work at Delhi and then visited in turn Calcutta, Madras, and Bombay, receiving deputations at each of these places and giving interviews to representative men. Efforts have been made to ascertain all shades of opinion. We have been throughout the inquiry in constant consultation with the members of the Government of India. We met the heads of certain provinces in Delhi in November, and the presidency Governors and Governments in their own capitals later on. On our return to Delhi a continuous series of conferences began; there were meetings of the Secretary of State and those associated with him and the Government of India; meetings with all the Heads of provinces; meetings with a Committee of the Ruling Princes; meetings of Committees to consider details; and frequent private interviews and informal discussions. We place our report

Method of inquiry.

therefore before His Majesty's Ministers as the record of opinions formed after a very full and free discussion conducted in many varying ways with those whom we were instructed to consult. We are only too conscious of the defects which must attend a report produced under the limitations of time which we thought it right to impose on ourselves; but we have tried to make it a self-contained document, so as to obviate any need for the presentation of papers. Indeed this short description of the methods by which the inquiry has been pursued will show how difficult it would have been to present papers which would give a consistent and consecutive view of its progress.

Scope of the Report and meaning of terms employed.

4. In the course of our interviews with representatives of all classes of opinion we were made aware of their wishes upon many important questions which lie outside the scope of our present inquiry. For that reason we make no mention of such matters in our report. Nevertheless they are receiving and will receive our careful consideration. We have tried to trace the growth of the existing structure and to indicate its defects. We have tried to explain the conditions of the problem and to suggest the contributions which all concerned must bring to its solution. But we have not felt it our duty nor necessary to our purpose to pronounce judgment on the past, or to condemn individuals or classes or communities. Our concern was with the organization; and as far as possible we have confined our comments to it. In several cases we have been content to indicate our proposals without going into details which it would have taken us too long to explore; or without explaining the exact means by which we intend that our suggestions should be carried out. On many such points there must necessarily be further consultation between the Government of India and the India Office. Again we have often made use of compendious or convenient terms without attempting to qualify or define them on each occasion with extreme precision. The language of our report should not be taken as embodying the exact terms in which the proposals should be expressed in the legal instruments which will be needed to give effect to them. If we speak of India as self-governing, the phrase is a convenient means of referring to the objective set out in the announcement of August 20, namely, responsible government in India as an integral part of the British Empire. When we speak of "provincial autonomy" the words are to be understood as conveniently summing up the position of the provincial Governments which we have defined more precisely elsewhere in the report. When we speak of the action of a local Government or of the Government of India, the terms should be understood in reference to the general powers of control exercised by the Government of India and the Secretary of State in Council respectively. If we speak of "Indian opinion" we should be understood as generally referring to the majority of those who have held or are capable of holding an opinion on the matter with which we are dealing. We have not forgotten that public opinion can rarely be unanimous,

nor have we overlooked the fact that a public opinion which is the opinion of the population as a whole can be developed in India only as education spreads and as people learn to use the vote. We trust that this explanation will be borne in mind by those who read our report.

Gravity of the task.

5. We do not suppose that any words of ours are needed to express our sense of the gravity of the task which we have attempted. The welfare and happiness of hundreds of millions of people are in issue. We have been called upon to revise a system of government, which has been constructed by builders who like ourselves had no models before them, during a century and a half of steadfast purpose and honourable aim; a system which has won the admiration of critical observers from many lands; and to which other nations that found themselves called upon to undertake a similar task of restoring order and good government in disturbed countries have always turned for inspiration and guidance. England may be proud of her record in India. She should have even greater reason for pride in it in future. Because the work already done has called forth in India a new life, we must found her Government on the co-operation of her people, and make such changes in the existing order as will meet the needs of the more spacious days to come; not ignoring the difficulties, nor underestimating the risks, but going forward with good courage in the faith that because our purpose is right it will be furthered by all that is best in the people of all races in India. But the fact that we are looking to the future does not mean that we are unmindful of the past. The existing edifice of government in India is a monument to the courage, patience, and high purpose of those who have devised and worked it, to which before we set about explaining our own proposals it is fitting that we pay our imperfect tribute.

PART I

The Material

Chapter I.—Recent events in India.

The announcement in Parliament.

6. On August 20, 1917, the Secretary of State for India made the following announcement in the House of Commons:—

"The policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions with a view to the progressive realization of responsible government in India as an integral part of the British Empire. They have decided that substantial steps in this direction should be taken as soon as possible, and that it is of the highest importance as a preliminary to considering what these steps should be that there should be a free and informal exchange of opinion between those in authority at Home and in India. His Majesty's Government have accordingly decided, with His Majesty's approval, that I should accept the Viceroy's invitation to proceed to India to discuss these matters with the Viceroy and the Government of India, to consider with the Viceroy the views of local Governments, and to receive with him the suggestions of representative bodies and others.

"I would add that progress in this policy can only be achieved by successive stages. The British Government and the Government of India, on whom the responsibility lies for the welfare and advancement of the Indian peoples, must be judges of the time and measure of each advance, and they must be guided by the co-operation received from those upon whom new opportunities of service will thus be conferred and by the extent to which it is found that confidence can be reposed in their sense of responsibility.

"Ample opportunity will be afforded for public discussion of the proposals which will be submitted in due course to Parliament."

A new policy.

7. We take these words to be the most momentous utterance ever made in India's chequered history. They pledge the British Government in the clearest terms to the adoption of a new policy towards three hundred millions of people. The policy, so far as Western communities are concerned, is an old and tried one. Englishmen believe in responsible government as the best form of government that they know; and now in response to requests from India they have promised to extend it to India also under the conditions set out in the announcement. We need not dwell on the colossal nature of the enterprise, or on the immense issues of welfare or misery which hang upon its success or failure.

The announcement marks the end of one epoch, and the beginning of a new one. Hitherto, as we shall show, we have ruled India by a system of absolute government, but have given her people an increasing share in the administration of the country and increasing opportunities of influencing and criticizing the Government. With the development of the old system we shall deal hereafter. For the moment, however, let us review the last stage, which began with the reforms of 1909, in order to see how it came about that the old familiar ways would no longer suffice for the well-being

of the country and why the change should take the form set forth in the words of August 20.

Morley-Minto reforms.

8. Lord Minto told his legislative council in March 1907, that with the object of satisfying the constitutional aspirations of that day, his Government had been considering how to give the people of India wider opportunities of expressing their views on how they should be governed. The increasing readiness of the landed and commercial classes to share in public life and to render assistance to Government, and the desire of the rapidly growing numbers of educated Indians to have a larger voice in administrative questions had convinced both Lord Morley and himself that it was time to carry to a further stage the reforms effected in Lord Lansdowne's days. The underlying idea of the Morley-Minto changes, which were introduced in 1909, was to associate the people to a greater extent with Government in the decision of public questions. With this end in view one seat on the Governor General's and one on each of the provincial executive councils were in practice reserved for Indian members. All the legislative councils were enlarged, and all were given a real and substantial elected element, while the provincial legislative councils were also given a non-official majority. The right of discussing questions of public interest was also conceded to the councils. This gave members a real opportunity of exercising some influence on questions of administration and finance, and though the executive government was left free to act upon such recommendations as it thought fit, the concession was regarded by persons of insight as perhaps the most important part of the changes. The institution of finance committees of the councils also gave the elected members a direct share in framing limited portions of the budget. Their scope in this direction, however, was extremely restricted, being confined to the small margin of expenditure available for optional schemes, that is such as had not already been definitely selected by the Government for execution. Not only was the amount available small, but in the nature of the case the schemes under consideration were generally of secondary importance. It was thought impossible to introduce a general system of direct election with territorial constituencies; and indirect election was accordingly retained, except in the case of Muhammadans and certain other special electorates.

Their character and reception.

9. The Morley-Minto reforms were essentially of an evolutionary character: they were a natural extension of the previously existing system. Excessive claims were made for them in the enthusiasm of the moment, but in any case they cannot justly be described as embodying any new policy. The change was one of degree and not of kind. Lord Morley himself emphatically repudiated the idea that the measures were in any sense a step towards parliamentary government. They were based on the fundamental principle that the executive government should retain the final decision of all questions although some degree of popular control

over legislation was established in the provinces by providing small non-official majorities. We shall examine in due course the claim that the reforms would "really and effectively associate the people of India in the work not only of occasional legislation, but of actual every day administration." But however this may be, there is no doubt that they constituted a real and important advance. At first they met with a good reception. The Congress welcomed them and Mr. Gokhale spoke of their "generous and fair nature" but very soon depreciatory criticism began to manifest itself and dissatisfaction has steadily increased.

Decentralization Commission.

10. It is almost a truism to say that any extension of popular control over an official system of government must be accompanied by some relaxation of the bonds of superior official authority. It was appropriate, therefore, that even the reforms of Lord Minto's time synchronized with an attempt to relax the closeness of the control exercised by the Government of India and the Secretary of State over the provinces. Between the constitutional changes and the attempts at decentralization a certain parallelism is discernible. The administration of Lord Curzon had been marked by a great period of investigatory and constructive activity. Department after department, service after service, was overhauled and a new programme of work laid down for it. Principles were enunciated and standards set. New departments or new authorities were created to relieve or to improve the existing machinery. All this tended to a marked concentration of authority in the hands of the central Government, against which a natural reaction in due course occurred. In addition, provincial Governments were beginning to chafe under financial and administrative restrictions, devised for a more primitive system, which fettered them in their plans of individual development. Complaints were heard also that the prevalent unrest was due in part to loss of touch between officials and the people. The district officer was said to be too closely bound by rules and regulations; too much occupied in writing to his official superiors; too much of a machine and too little of a personality. These reasons led to the appointment of the Royal Commission on Decentralization which presented its report in 1909. The report surveyed the relations between the Indian and the provincial Governments, and also between the latter and the authorities subordinate to them, and recommended a series of measures having for their object the relaxation of control by higher authorities and the simplification of administrative methods.

It would be unjust in us to blame the Commission for not taking a broader view of their task. They stand on firm ground when they defend the maintenance of close official control in India by the absence of control by local parliamentary bodies: nor can they be accused of want of foresight, since they recognized that if the local legislative councils were granted material control over provincial finance, a greater separation of Indian and provincial revenues must follow. Their work must be judged by the conditions of 1908

and not those of 1918; it was the appropriate corollary to, and in keeping with, the Morley-Minto changes. All we need say is that, if we mean to give the provinces a real measure of constitutional liberty of action now, measures of decentralization far beyond those conceived by the authors of the report will certainly be necessary.

Even as things were, however, and under the drastic limitations which the system imposed, their proposals affected much of the framework of government; much time was necessarily occupied in their examination; and their results, which are contained in a long series of Government orders and resolutions, have been important and valuable, especially in the financial sphere. Between the years 1910 and 1917 the control of the Government of India over local Governments has been appreciably relaxed in a multitude of details and much has been done both to free local bodies from official interference, and to delegate increased powers to the heads of departments both in the Government of India and in provincial Governments.

The Imperial visit.

11. The year 1911 was made memorable by the visit of Their Majesties the King-Emperor and Queen-Empress. It was the first occasion on which the British Sovereign had set foot on the soil of his Indian dominions. The feelings of the people are warm and quick, the sentiment of attachment to a personal ruler is strong, and the King's presence among them was felt to be an act of Royal kindness and affection, which stirred the heart of India to its depth. The visit proved the deep loyalty of the masses of the people, which His Majesty's message of hope for the future did much to confirm. As the message from the Princes and peoples of India to the people of Great Britain and Ireland put it:—" Their Imperial Majesties have drawn closer the bonds that unite England and India, and have deepened and intensified the traditional feeling of loyalty and devotion to the throne and person of the Sovereign," and " we are confident that this great and historic event marks the beginning of a new era ensuring greater happiness, prosperity and progress to the people of India under the ægis of the Crown." By the Royal announcement in the durbar at Delhi the partition of Bengal was modified, in a manner which inevitably disappointed the Muhammadans of Eastern Bengal but was of political value in allaying a greater grievance; and the simultaneous removal of the capital from Calcutta to Delhi appealed to the popular imagination particularly as a striking manifestation of the powers of State. But these changes are only germane to our purpose in so far as the despatch in which they were proposed produced a lively discussion of constitutional policy. After dwelling on the necessity 'in due course' of giving Indians a larger share in the government and the difficulty of doing so while retaining the supreme authority of the Governor General in Council, the despatch stated " the only possible solution of the difficulty would appear to be gradually to give the provinces a larger measure of self-government, until at last India would consist of a number of administrations autonomous in all provincial

affairs, with the Government of India ordinarily restricting their functions to matters of Imperial concern." We do not propose to discuss the interpretation placed upon this reference to provincial autonomy; but Lord Crewe expressly repudiated any idea that the despatch implied a future for India on the lines of colonial self-government as the goal of policy.

Public Services Commission.

12. Lord Hardinge's Government were indeed less concerned to deal with what they conceived to be vague and distant aspirations than to satisfy what they looked on as reasonable and practical claims. They were anxious to give to Indians as large a share in the public services as was consistent with the best interests of the country; and in September 1912 a Royal Commission was appointed to examine and report on various matters connected with the public services of which the most important was:—

"Such limitations as still exist in the employment of non-Europeans, and the working of the existing division of services into Imperial and provincial."

The Commission visited India during the cold weathers of 1912-13 and 1913-14 and recorded an immense volume of evidence, official and non-official, in each province. The evidence was naturally conflicting and there were occasions when it was tinged with racial feeling. The report was completed early in 1915, but owing to the outbreak of hostilities it was decided to postpone publication in the hope of avoiding controversy at a time when all energies should be concentrated on the conduct of the war. But the report could not be withheld indefinitely and was ultimately published in January 1917. By that time the war had raised the pitch of Indian expectations to an extreme height, and we are not surprised that a report which might have satisfied Indian opinion two years earlier was generally denounced in 1917 as wholly inadequate. The Commission proposed that some services should be entirely recruited in India and that the Indian element in others should be largely increased. But their assumption that British responsibility for India requires a preponderating proportion of British officers in the security services did not commend itself to many Indian critics. We shall return later on to the discussion of this question, and shall make our own proposals. For a time at all events, owing to the intensity which nationalist feeling had acquired, and, we must add, the tinge of racialism which had infected political discussion, the effect of the report was to irritate rather than to satisfy Indian opinion.

Local self-government Resolution, 1915.

13. Ever since Lord Ripon's attempt in 1882 to give reality to the municipal boards and local cess committees instituted in the sixties, British administrators in India had looked to local self-government in town and country as affording the field in which Indians might best be trained in the management of public affairs. We cannot doubt the soundness of this principle: indeed our own proposals will be seen to endorse it. But the local bodies were ill-

one while its predecessor was a temporary measure, and this point formed the chief ground of attack. The Criminal Law Amendment Act, 1913, followed on the attempt to assassinate Lord Hardinge in December 1912. It amended the Indian law of conspiracy by making it penal to conspire to commit an offence even though the conspiracy was accompanied by no overt act in pursuance of its object. Criticism of all such measures has generally taken the form of an appeal to abstract principles of liberty and the inalienable rights of British citizens; objection is generally taken to the use of executive rather than of judicial sanction; stress is laid on the advantages of conciliation; it is often said, to quote a non-official member of the Legislative Council in 1913, "Trust begets trust; mistrust, or even the suspicion of it, engenders suspicion." The Government's estimate of the situation is attacked as unduly pessimistic; the necessity for the measure is denied; or it is urged that the political position will certainly improve and therefore the measure should be only a temporary one. In particular, notwithstanding the services which the Criminal Investigation Department has rendered to the cause of peace and tranquillity, and so to the Indian people, by exposing and combating the growth of revolutionary conspiracies, there has been much criticism of its activities as being too widespread.

Resentment of racial discrimination.

16. In the next place we may discern an ever-growing discontent with measures which were resented as evidence of racial discrimination. Again our concern is to take note of such feeling as an element in the conclusions to which we come hereafter rather than to pronounce a judgment on it. Race feeling is no new phenomenon in India. It has always existed, but has been more bitter at some periods than at others. The spread of English education and ideas, and the growing belief in the future possibilities of India were doubtless among the causes which made nationalist speakers and writers vehemently resent any suggestion of discrimination on a colour basis. We may mention, by way of illustration only, some of the matters which were specially attacked. The first is the preference shown in the arms rules to "every European or East Indian subject of His Majesty," who enjoys the privilege, denied to the ordinary Indian, of possessing ordinary sporting arms and ammunition without a license. Another grievance is what is described as the denial to Indians of the right to bear arms in defence of their country. Although there was no statutory prohibition of the enrolment of Indians in the volunteer force, it was left to commanding officers to admit or to exclude any would-be recruit, and while a small number of Indians, mostly Christians, were admitted as members of volunteer corps, Indians generally were in practice not enrolled. The Indian Defence Force Act has made an attempt to deal with this grievance. Again there was the exclusion of Indians from the commissioned ranks of the army. Indian officers form a separate establishment from the British officers, and the highest and most experienced of the former rank lower than the most junior

of the latter. This particular disparity naturally came into special prominence on the outbreak of the war.

Another grievance of a similar nature, which became more generally felt as the habit of travel increased, was the discrimination against Asiatics in the immigration rules and the municipal legislation of some of the Dominions. This stands on a different footing, because the grievance was not one created or removable by the Government of India, which indeed has steadily done its utmost to secure redress; but its action has not always been appreciated and at times the Government of India has had to bear the odium of these grievances as much as if it had been responsible for them.

Zeal for social reform.

17. Thirdly, we find much energy directed to accelerating progress in what may be called the more humanitarian aspects of government and also in social or sectarian reform. Not that Government had been idle; on the contrary the long record of its activities does it credit; but Indian opinion asked for more. The records of the legislative councils since 1910 are full of debates on resolutions to increase the grants for education and sanitation. The speakers did not always consider where the extra money was to come from; but if it had to be found by reducing expenditure on some other service or department then the police were nearly always selected as the victim. Police expenditure and administration were a constant object of attack; while the treatment of prisoners and jail administration also attracted frequent attention. In 1913, and again in 1914, resolutions, which have since borne fruit, directed the attention of the executive government to the whole subject of prison management. In 1911, Mr. Gokhale introduced a Bill to establish a system of compulsory primary education. The Bill was opposed by Government on technical and financial grounds and also by some non-official members, but it received the support of the progressive politicians; and, though defeated, it certainly sowed a seed that is beginning to germinate in Bombay and other provinces. Proposals for new universities, both sectarian and provincial, were another matter in which keen interest was shown. The Hindu University Bill was passed in 1915 and the Patna University Bill in 1917: other projects have had to be deferred till the war ends. In the sphere of social reform we observe one notable advance. The Government with public opinion behind them abolished indentured labour.

Demand for more liberal institutions.

18. We note at the same time a decided movement in favour of what we may call the liberalization of existing institutions. The popular feeling in favour of council government in provinces received a stimulus when the new province of Bihar and Orissa was given an executive council. A proposal to set up a similar form of government in the United Provinces received the support of the great majority of the non-official members of the Indian Legislative Council. Its rejection by the House of Lords in 1915 intensified the general demand for council government. We

not lost the opportunity of preaching revolt on board the ship, and the Indian authorities decided to enforce the Ingress into India Ordinance in order to prevent any agitation or disturbance on the return of the emigrants. The Sikhs were excited by the disembarkation arrangements at Budge-Budge and started to march to Calcutta. They were taken back by a force of police and military, and suddenly opened fire at Budge-Budge on the police. Men were killed on both sides and the Sikhs scattered before they could be surrounded. Most but not all of them were rounded up, and the leaders were put under restraint in the Punjab where they formed a nucleus of disaffection, which led to the events described below.

When the war broke out there had been a great stir among the Sikhs in America, and the *Ghadr* organization began a campaign to induce them to return to start a revolution in India. In all about 8,000 Sikhs came back to the Punjab from the United States, Canada, and the Far East, and we know that efforts were made to bring them all into the conspiracy. In most cases the attempt failed and in respect of some three-quarters of the returning emigrants no action was necessary: but most of the dangerous characters on their arrival were interned. Some who had merely been restricted to their homes disregarded the orders, and joining with others who had not been interned, attempted to collect a following. In this they had little success, for the countryside as a whole remained loyal and quiet; but so long as they were active, the gangs were dangerous and made attempts to concert a rising in conjunction with any disaffected elements that they could find in regiments. Happily all miscarried, as in each case timely information was given. But the position was full of serious possibilities. Political dacoities and murders of the type common in Bengal began to be a feature of the disturbance and it was apparent that the Punjab and the Bengal movements were in touch, and that the former derived direct stimulus from the latter. In certain districts of the Western Punjab widespread disorder ensued, to which political, racial, and agrarian causes all contributed, and the gravity of the situation convinced Lord Hardinge's Government of the need for some special weapon to enable them to deal with it promptly. The Defence of India Bill was introduced into the Indian Legislative Council and passed without delay. Inevitably it was a drastic measure; it gave to the Governor General in Council wide rule-making powers with a view to securing the public safety and defence of the country, and also provided for the creation of special tribunals for the quicker trial of certain classes of cases in specially disturbed tracts. It was comparable to a similar Act passed in the United Kingdom also as a war measure. The Bill was naturally rather a severe trial to the Indian elected members; as loyal citizens they supported its principle; but they made no secret of their aversion to particular provisions and moved many amendments against which Government used its official majority without hesitation as they would have destroyed the efficacy of the Bill. The Act was immediately applied in the Punjab, and later elsewhere as circumstances demanded. During

a war the Government could not have relied on its ordinary judiciary in dealing with conspiracy cases of such dimensions as those which the special tribunals were called upon to try.

Attitude of the politicians.

22. We consider that the attitude of Indian political leaders in the first stages of the war was worthy of all praise. They responded loyally to Lord Hardinge's appeal for the suspension of domestic controversy, and through the legislative sessions of 1915 showed a general desire to co-operate with rather than to hamper Government. But we must recognize that latterly a change has taken place. As India settled down to war conditions, and lost alike its first enthusiasm and its first alarm, the old tendency to criticism asserted itself: the Government was charged with having itself departed from the principle of avoiding controversial legislation; and the politicians retaliated not merely by raising controversial issues, but by pressing on the Government more and more extravagant demands. We imply no criticism upon the Government of the time when we say that in the light of subsequent events we are constrained to wonder whether a bolder policy from the outset of the war, and a franker inviting of India's co-operation in all forms of war effort might not have done much to steady men's minds. The war is far from being won. Unless it is won India's political aspirations are a vain dream. We would call the attention of Indian politicians to this obvious truth. But the war and the sentiments to which the war has given expression have made political reforms loom larger in India; and the fact that among all the preoccupations of the war time was found for an attempt to solve the Irish problem and to consider questions of reconstruction encouraged Indian politicians to press their demands also. The change in their attitude nowhere more clearly appears than in the difference between the tone of the Congress of 1915 and that of 1916.

Effects of the war. New sense of self-esteem.

23. But for the real and lasting effects of the war on India's destiny we should look neither to the generous help of the Princes, nor to the loyalty of the people as a whole, nor to the misguided activities of revolutionary gangs, nor yet to the attitude of the political leaders. They must be sought deeper and, we think, in two main directions. First, the war has given to India a new sense of self-esteem. She has, in the words of Sir Satyendra Sinha, "a feeling of profound pride that she has not fallen behind other portions of the British Empire but has stood shoulder to shoulder with them in the hour of their sorest trial." She feels that she has been tried and not found wanting, that thereby her status has been raised, and that it is only her due that her higher status should be recognized by Great Britain and the world at large. The war has given an interest in public affairs to many thousands who were indifferent before. Many men, using language familiar to them in the past, claim that she should receive some boon as a reward for her services, but we do not think that this expresses the general feeling well or justly. We prefer to say that we find a general

belief that India has proved herself worthy of further trust and of a more liberal form of government, and that whatever changes are made should be made in recognition of her own progress rather than as the reward for any services which she has rendered.

Emphasis on self-determination.

24. Further, the war has come to be regarded more and more clearly as a struggle between liberty and despotism, a struggle for the right of small nations and for the right of all people to rule their own destinies. Attention is repeatedly called to the fact that in Europe Britain is fighting on the side of liberty, and it is urged that Britain cannot deny to the people of India that for which she is herself fighting in Europe, and in the fight for which she has been helped by India's blood and treasure. The revolution in Russia in its beginning was regarded in India as a triumph over despotism; and notwithstanding the fact that it has since involved that unhappy country in anarchy and dismemberment, it has given impetus to Indian political aspirations. The speeches of English and American statesmen, proclaiming the necessity for destroying German militarism, and for conceding the right of self-determination to the nations, have had much effect upon political opinion in India and have contributed to give new force and vitality to the demand for self-government, which was making itself more widely heard among the progressive section of the people.

The Home Rule movement.

25. The movement found formal expression when on September 1, 1916, the Home Rule League was formally established at a meeting in Madras, and a month later nineteen elected members of the Indian Legislative Council submitted to the Government of India a memorandum of proposed reforms. In December 1916 the Congress of Muslim League, in a series of memorable meetings held at Lucknow, agreed to joint action in favour of political reform. Both bodies adopted the proposals now known as the Congress-League scheme, which was an elaboration of the proposal of the nineteen members with the addition of certain special provisions to secure Muslim interests; and both agreed also to co-operate with the Home Rule League in its propaganda.

Position of the Muslims.

26. As regards the Muslim League, a word of explanation is needed. Throughout the troubled years 1907-10 the Muhammadans, with a few unimportant exceptions, held severely aloof from the revolutionary movement, and retained their traditional attitude of sturdy loyalty, secure in the feeling—which the partition of Bengal and the concession of communal representation in the reforms of 1909 had strengthened—that their interests were safe in the hands of the Government. Since 1911 their attitude has been growing far less acquiescent. Their first disquiet arose from the war which broke out between Italy and Turkey in 1911, when Great Britain's neutrality engendered some bitterness of feeling. It seemed to our Muslims in India that in deference to the religious susceptibilities of her seventy million subjects Great Britain ought to have

supported Turkey. Before this feeling had died down the re-partition of Bengal was announced. This was not only a severe disappointment to the community because it deprived them of what was essentially a Muslim province, but to many it came also as a shock to their faith in the Government which they regarded as positively pledged to maintain the partition. The Balkan war was a further cause of estrangement. This was represented as a struggle between the Cross and the Crescent and led to much bitterness of feeling. Indian Muslims showed their sympathy for Turkey by despatching a medical mission to her aid in December 1912; and a section of pan-Islamists began to teach that the first duty of Muslims is allegiance to the Khalif, and founded a new organization—the *Anjuman-i-Khuddam-i-Kaaba*—whose members took an oath to sacrifice life and property in defence of the holy shrine against non-Muslim aggressors. There were signs, however, of an improvement in Muslim feeling in the latter half of 1913, when riots and loss of life in connexion with the partial demolition of a Cawnpore mosque caused a temporary set-back. The Turks' recovery of Adrianople, the declaration of peace in the Balkans, and the reaction from the passions aroused by the Cawnpore affair induced calmer feelings; but a fresh difficulty presented itself when Turkey entered the war against us in November 1914. The Germans counted certainly on being able to stir up disaffection in India, and lost no labour in trying to persuade Indian Muhammadans that Turkey was engaged in a *jihad*, or holy war, and that it was their religious duty to take sides against England and her Allies. These enemy attempts wholly failed to affect the great mass of the Muslim community. Keenly as they felt the painful position in which they were placed, they were admirably steadied by the great Muhammadan princes and nobles and preserved an attitude of firm loyalty which deserves our praise and sympathy. In this attitude they were greatly helped by the public assurances given by His Majesty's Government to the effect that the question of the Khalifate is one that must be decided by Muslims in India and elsewhere without interference from non-Muslim powers. But a small section of extremists were quick to seize the opportunity of making trouble and ventured on almost open avowals of disloyalty against which the Government had no choice but to take action.

Hindu-Muslim *entente.*

27. Probably few communities could have passed through so prolonged a period of trial without some cleavage in their ranks. The crumbling of Islamic kingdoms in Morocco and Persia had led Indian Muhammadans to cling more closely than ever to Turkey as the great surviving Muslim power in the world; and when Turkey was threatened first by Italy and then by the Balkan League the excited fancy of many Indian Muslims saw in these events a concerted plot of the Christian Powers to make an end of Islam as a temporal power. The re-partition of Bengal and also the check to the hopes entertained of a great Muhammadan university depressed the minds of many honest Muslims with a sense of their inefficiency. There were those who, feeling mainly their political weakness compared

with the Hindus, wished to have done with agitation and excitement, to concentrate effort on education, and to rely on Government for protection and fair play. Younger and keener minds, touched often with some fervour of pan-Islamism, were no longer willing "*stare super antiquas vias*." The advanced party prevailed in the counsels of the Muslim League; in 1913 it proclaimed its adoption of the cause of colonial self-government of a kind suited to India and was warmly eulogized by the Congress for so doing. So far as pan-Islamic feeling affected the situation, that factor did not tend of course towards union with the Hindus; but at the time stronger causes were at work to bring the advanced parties on both sides together. With them at all events the new nationalism produced by the war prevailed; and at the meetings at Lucknow in Christmas week, 1916, Congress and League came formally together, and the conservative portion of Muhammadan opinion which remained outside the *concordat* was ignored. This agreement, however, represents the beginning of united action between Hindus and Muhammadans which every well-wisher of India hopes will grow. The limitations of this union are discussed elsewhere; it is not surprising that some considerable reaction has since occurred; but none the less the Lucknow agreement was a beginning of which note must be taken, and which marks a change in the situation.

Need for a new policy.

28. On all sides it was felt that the situation demanded new handling. The latter part of Lord Hardinge's term of office was largely devoted to a preliminary and informal examination of the changes which were possible and prudent; and Lord Chelmsford's first act was to take up the inquiry from the point where his predecessor left it, and to concentrate attention in the first place on a declaration of policy. The Cabinet's preoccupation with the war inevitably delayed the decision of questions so delicate and complex; and while the discussions between India, the India Office, and the Cabinet were proceeding came Mr. Chamberlain's resignation of his office as Secretary of State. India had learned during his tenure of office, and especially from the lips of her three delegates to the War Conference, how generously and steadfastly he had served her interests, and his retirement was as much regretted in that country as in England. Meanwhile the difficulties of administration in India were rapidly increasing. Lord Chelmsford's Government felt that without the declaration of policy for which they were pressing, it was impossible for them to act effectively on a directed course. The announcement of August 20 cleared the situation and was hailed with almost as much relief by the authorities as satisfaction by the politicians.

Chapter II.—Growth of the Administrative System.

29. The supremacy of Parliament over British India is legally complete. But the process by which Indian affairs became a matter of national concern was slow and gradual. At first the Company's settlers were responsible only to the Directors, who derived their powers of control from Charters given them by the Crown. There was then no question of sovereignty or territorial administration. But when the battle of Plassey compelled the Company to assume the task of reconstructing Bengal, the astonishing position was created that a few commercial agents were handling the revenues of a kingdom in the name of an emperor. The Company's peril of bankruptcy was the immediate cause of Parliament's first intervention; but a more powerful motive was the growing feeling in England, to which the opulence and arrogance of officials returning from India contributed, that the nation must assert its responsibility for seeing that the new and vast experiment of ruling a distant and alien race was properly conducted.

Beginnings of British control.

30. The beginnings of Parliamentary control are seen in Lord North's Regulating Act which created and named the first Governor General and Council. But future appointments were still left to the Directors, with whom also the Home management remained. Parliament's first attempt to provide for the ordering of Indian affairs has been condemned with some reason as violating the first principles of administrative mechanics. It created a Governor General, who was powerless before his own Council, and an executive that was powerless before a Supreme Court, itself immune from all responsibility for the peace and welfare of the country—a system that was made workable only by the genius and fortitude of one great man. Such a structure could not have lasted and the Act of 1781 swept away some of its worst anomalies. Meantime the facts that Indian territories were becoming involved in European wars and that from the struggle the Company was emerging as the strongest power in the land made Parliament resolve to strengthen its control. Committees were appointed which reported adversely on the administration; and on their reports resolutions were carried requiring the recall of Warren Hastings and the closer definition of the Governor General's powers. The Directors defied Parliament and retained Hastings. Fox introduced his Bill, which was defeated, thanks to George III's famous intervention; and Pitt, at the age of twenty-five, reformed the constitution of India.

First intervention by Parliament.

31. Pitt's Act of 1784 set up as the supreme executive authority six parliamentary commissioners for the affairs of India, known more generally as the Board of Control; and thereby instituted the dual system of government by

The Board of Control.

the Company and by a parliamentary Board which endured till after the Mutiny. From Lord Cornwallis' time onwards we may take it that all administrative acts of the Governor General in Council, including annexations of territory, were done with the sanction of the national Government. The Company survived; the Directors still had great powers of patronage and also the direction of the ordinary Home business; but before every renewal of the Company's Charter, Parliament made a practice of holding an exhaustive inquiry into the Indian administration. The most famous of these inquests is that which resulted in the Fifth Report of 1812. Meanwhile the indefinite dominion derived from Moghul sources in the form of *Diwani* (or revenue administration) of Bengal, Bihar, and Orissa was gradually overlaid by new sovereignty derived from Parliament. The Act of 1813 while continuing the Company in actual possession, asserted the sovereignty of the Crown over its territories; and the Act of 1833 declared that they were held in trust for His Majesty. It also directed that all Indian laws and also the reports of the newly-instituted Law Commissioners should be laid before Parliament. Finally in 1853 the right of patronage was taken from the Directors and exercised under rules made by the parliamentary Board of Control. We must not conclude, however, that the supremacy of the President of the Board of Control left the Directors with no real power. Their position was still a strong one; the right of initiative still rested ordinarily with them; they were still the main repository of knowledge; and though the legal responsibility lay with Government, they exercised to the last a substantial influence upon details of administration.

The Secretary of State for India.

32. When the Indian Mutiny sealed the fate of the greatest mercantile corporation in the world, the powers previously wielded both by the Court of Directors and by the parliamentary Board of Control passed to the Secretary of State for India. At the same time with the Secretary of State was associated a Council, of which, as matters now stand, nine members must have had long and recent service or residence in British India. The legal powers of the Council suggest that it is to be regarded as in some sort the successors of the Court of Directors; but the practical *raison d'être* of the Council of India is that its members provide a parliamentary Minister, who is usually without personal knowledge of India, with experienced advice upon Indian questions.

Like other Ministers of the Crown, the Secretary of State for India is a member of the parliamentary executive of the United Kingdom, and responsible to Parliament in accordance with constitutional practice for his official acts. He has therefore and must have generally the power of overriding his Council. But as an important exception to this rule it has been laid down, doubtless with the idea of protecting the tax-payers of India from improper charges, that the vote of a

majority in Council is necessary before any expenditure can be sanctioned or certain other specified matters decided; and it follows that to this particular extent Parliament has deliberately divested itself of the power of interference. It could not, without first amending the Government of India Act, order any expenditure to be incurred from Indian revenues which a majority of the Secretary of State's Council declined to sanction.

Nature of Parliamentary control.

33. Let us now consider how Parliament actually exercises control over Indian affairs. Whatever other elements originally entered into it, India's constitution has been in the main derived from Parliament and, indeed, has very recently been embodied, to the great convenience of all concerned, in a consolidating statute (5 and 6 Geo. V., c. 61). The powers of the various governments and legislatures and high courts in India, indeed the establishment of the Secretary of State in Council, are thus due to Parliamentary enactment.

It is open to Parliament to exercise control either by means of legislation, or by requiring its approval to rules made under delegated powers of legislation; or by controlling the revenues of India; or by exerting its very wide powers of calling the responsible Minister to account for any matter of Indian administration. Some of these things, however, Parliament does not do. As a general rule it does not legislate specially for India; though from time to time it passes measures such as the Merchant Shipping Act or the Copyright Act, drawn after consultation with the India Office, which apply to India in common with other British possessions. Parliament as a rule legislates for India alone in two important directions only—amendments in the constitution of India and loans raised by the Secretary of State. The bulk of Indian legislation it leaves to the Indian legislatures, which it has itself created, though it exercises through the Secretary of State complete control over the character of such law-making. But it insists that decisions on certain important matters, such as rules for the nomination or election of additional members of council, or for appointments to the Indian Civil Service, or defining the qualifications for persons to be appointed to listed posts, or notifications setting up executive councils for lieutenant-governors shall be laid before it. Nor are Indian revenue and expenditure controlled by Parliament. The revenues apart from loans are not raised, nor are the charges except for military expenditure beyond the frontiers incurred with its direct approval. The Home expenditure is met from Indian revenues and therefore the salaries of the Secretary of State and his office are not included in the estimates. A motion in favour of placing these amounts on the estimates was made in 1906, and defeated by a large majority, on the ground that the change would tend to bring the Indian administration into party politics. Accordingly all that at present happens is that a detailed account of receipts and charges is annually laid before Parliament together with a report, the quality of which has incurred some criticism, upon the

moral and material progress of the country. A motion is made that Mr. Speaker do leave the chair for the House to go into Committee on the East India revenue accounts; the actual motion made in Committee is declaratory and formal; a general debate on Indian affairs is in order, and the Secretary or Under Secretary of State usually takes this opportunity to inform the House about any important matters of administration. All sums expended in England on behalf of India are also examined by an auditor who lays his report before both Houses. Because Parliament does not vote the revenues of India, it has not the same opportunity of exercising the control over its administration as over the great departments of the public service in Great Britain. It is, of course, true that when any matter of Indian administration attracts public interest, Parliament has the ordinary and perfectly effective means of making its opinion felt, by questions, by amendments to the address, by motions to adjourn, by resolutions or by motions of no confidence. We have no hesitation in saying, however, that the interest shown by Parliament in Indian affairs has not been well-sustained or well-informed. It has tended to concern itself chiefly with a few subjects, such as the methods of dealing with political agitation, the opium trade, or the cotton excise duties. It may be well to record that in India such spasmodic interferences are apt to be attributed to political exigencies at Home. We note that Her Majesty's Ministers did not feel it necessary to give effect to resolutions of the House of Commons on the opium trade in 1889 and 1891, nor about simultaneous examinations in India and England for the Indian Civil Service in 1893, because they felt assured that the House would not on reflexion constrain them to carry out measures which on inquiry proved to be open to objection. No one questions the competence of Parliament to interfere as drastically or as often as it chooses. Our point, however, is that it does not make a custom of interfering. There may be good reasons for this. The press, the telegraph, improved communications, the steady advance of India to Western methods and standards of administration, and the beginnings of representative institutions in India itself may all have helped to promote a feeling that India's welfare was generally safe in the hands of the Indian Government. Nor can it be denied that constant interference by Parliament in the affairs of a distant Asiatic country would have greatly increased the difficulties of its administration, or that India has been fortunate in rarely becoming a subject of party strife. But whatever advantages may have attended this comparative immunity from criticism of the Indian administration, we think that there have been losses as well. We have seen how in the days of the Company it was Parliament's habit before renewing the Charter to hold a regular inquest into Indian administration. That practice has lapsed since 1858. Indeed we have the paradox that Parliament ceased to assert control at the very moment when it had acquired it. It cannot be said that Royal Commissions on particular subjects, for example, those over which Sir Charles Hobhouse and Lord Islington presided, are an adequate substitute for

the old procedure. In January 1908, Lord Morley discussed the question of reviving it.

"I see what its advantages might be, yet I also perceive serious disadvantages. In the old days they were able to command the services on the Indian committees, of *ex*-Ministers, of members of this House, and members of another place, who had much experience of Indian administration, and I am doubtful, considering the preoccupations of public men, whether we should now be able to call a large body of experienced administrators, with the necessary balance between the two Houses, to sit on one of these committees. And then I would point out another disadvantage. You would have to call away from the performance of their duties in India a large body of men whose duties ought to occupy, and I believe do occupy, all their minds and all their time. Still it is an idea, and I will only say that I do not entirely banish it from my own mind."

Our own study of political development in India has led us, notwithstanding the force of these arguments, to one important conclusion. It is that Parliament's omission to institute regular means of reviewing the Indian administration is as much responsible as any single cause for our failure in the face of growing nationalist feeling in India, to think out and to work out a policy of continuous advance. For this failure it would be unfair to blame the Government or the services of India. They have been abundantly occupied with their own heavy tasks and they have lacked instructions from those whose business it was to give them. But, as we shall show hereafter, we think that there is a strong case for reviving in some form the machinery for enabling Parliament to discharge the weighty responsibility which lies upon it and which indeed the announcement of August 20 categorically acknowledges, for determining the stages and the pace of India's future political progress.

Establishment of Parliamentary supremacy.

34. The absolute character of the supremacy of Parliament may be judged from the fate of attempts that have occasionally been made to impugn it. After the Councils Act of 1861 had made the legislative councils into something recognizably different from the executive councils and encouraged the idea that they enjoyed some measure of deliberative independence, we at once find signs of that conflict of principle which inevitably exists between allegiance to Parliament and amenability to any representative body in India. Questions vitally affecting the structure of the government were thereby raised. The unity of the executives in India, the subordination of provincial Governments to the Government of India, and the ultimate supremacy of Parliament in legislative matters, all became questions in issue. Members of the Governor General's executive council who differed from the views of the majority on legislative questions wished to reserve their freedom of action when the Bill came before the legislative council. Some claimed actually to oppose the Government measure if they chose; others said that they would be content if allowed to abstain from voting. Mr. Gladstone's Government at first dealt tenderly with the claim of individual liberty of conscience and declined to order official members to vote at dictation; they suggested that a proper sense of the necessity

for upholding the authority of the Government should suffice to secure unity. But when Lord Mayo's Government as a whole protested at being required to pass the Bills which became the Contract Act and the Evidence Act in the shape in which the Secretary of State on the report of the Indian Law Commissioners approved them, on the ground that such a course deprived the legislative councils of all liberty of action, the Home Government proceeded to assert their rights of control in the most emphatic manner.

"It cannot be denied that some theoretical inconveniences are inseparably connected with the working of such a machinery of Government as that through which the Empire of India is ruled from Home. In practice these inconveniences may be, and have actually been, reduced to a minimum by mutual respect on the part of those who discharge various functions and exercise different powers in a divided and complex system of administration. But the risk of serious embarrassment would become much greater than hitherto it has been found to be, if a clear understanding were not maintained as to one great principle which from the beginning has underlaid the whole system. That principle is that the final control and direction of the affairs of India rest with the Home Government, and not with the authorities appointed and established by the Crown, under Parliamentary enactment, in India itself.

"The Government established in India is (from the nature of the case) subordinate to the Imperial Government at Home. And no Government can be subordinate, unless it is within the power of the superior Government to order what is to be done or left undone, and to enforce on its officers, through the ordinary and constitutional means, obedience to its directions as to the use which they are to make of official position and power in furtherance of the policy which has been finally decided upon by the advisers of the Crown.

"Neither can I admit that it makes any real difference in the case if the directions issued by the Imperial Government relate to what may be termed legislative as distinguished from executive affairs. It may be quite as essential, in order to carry into effect the views of the Imperial Government, as to the well-being of Her Majesty's Indian dominions, that a certain measure should be passed into a law, as that a certain Act described in common language as executive, should be performed. But if it were indeed the case, as your argument would represent it to be, that the power of the Imperial Government were limited to the mere interposition of a veto on Acts passed in India, then the Government of the Queen, although it could resist the passing of an injurious law, would be helpless to secure legislative sanction for any measures, however essential it might deem them to be, for the welfare or safety of Her Indian Empire. I think that, on reconsideration, you will see how inadequate such a power would be to regulate and control the affairs of that Empire, and how small a part it would represent of that supreme and final authority which has always been held and exercised by the Government of the Crown.

"The Imperial Government cannot indeed insist on all the members of the Governor General's Council, when assembled for legislative purposes, voting for any measure which may be proposed, because on such occasions some members are present who are not members of the Government and not official servants of the Crown. But the Act which added these members to the Council for a particular purpose made no change in the relations which subsist between the Imperial Government and its own executive officers. That Government must hold in its hands the ultimate power of requiring the Governor General to introduce a measure, and of requiring also all the members of his Government to vote for it.

"I must add that the principle I have now asserted is the recognized principle of the British Government in relation to other parts of the Queen's dominions

where the authority of the legislating body is derived from the Crown and is not founded on the principle of popular representation. The vastness and importance of Her Majesty's Indian dominions, however they may add to the dignity of those who are called upon to administer its affairs on the spot, in no degree exempt them from the necessary tie of subjection, but rather render it more incumbent on Her Majesty's advisers and councillors at Home to maintain the more carefully the existing order of things as defined by constitutional usage, and by what I may term the fundamental axioms of the connexion between this country and India."

Again when Lord Northbrook's Government attempted to assert the independence of his Government in fiscal matters Mr. Disraeli's Government were equally decided in affirming their constitutional rights.

"It is not open to question that Her Majesty's Government are as much responsible to Parliament for the Government of India as they are for any of the Crown Colonies of the Empire. It may even be said that the responsibility is more definite, in that the powers conferred are, in the case of India, armed with a more emphatic sanction.

"It necessarily follows that the control exercised by Her Majesty's Government over financial policy must be effective also. They cannot, of course, defend in debate measures of which they do not approve; nor can they disavow all concern in them, and throw the responsibility for them upon the distant Government of India.

"Full legal powers having been entrusted to Her Majesty's Government, Parliament would expect that care should be taken that no policy should be pursued which Her Majesty's Government were unable to defend. If the control they possess were to be in any respect less than complete, the power of Parliament over Indian questions would be necessarily annulled. If the Government were at liberty to assume the attitude of bystanders, and to refer the House of Commons for explanations to the Governor General in Council upon any policy that was assailed, there would practically be no one whom the House could call to account, or through whom effect could be given to its decisions. In scrutinizing the control exercised over the Government of India by Her Majesty's Government, and the grounds for maintaining that control, it must be borne in mind that the superintending authority of Parliament is the reason and the measure of the authority exercised by the responsible Ministers of the Crown; and that, if the one power is limited the other must be limited at the same time."

Further when in 1878 a member of the Madras executive council moved an amendment which had been rejected by the Government of India, to a Bill that was before the provincial legislative council, the Secretary of State declared that his action was constitutionally improper.

The debate on the cotton duties in 1894 was the last occasion on which the issue was raised. Sir Henry Fowler then laid it down positively that the principle of the united and indivisible responsibility of the Cabinet, which was recognized as the only basis on which the government of the United Kingdom could be carried on, applied to the Indian executive councils, in spite of the different nature of the tie which held its members together.

"It should be understood that this principle, which guides the Imperial Cabinet, applies equally to administrative and to legislative action; if in either case a difference has arisen, members of the Government of India are bound, after recording their opinions, if they think fit to do so, for the information of the

Secretary of State in the manner prescribed by the Act either to act with the Government or to place their resignations in the hands of the Viceroy. It is moreover immaterial for the present purpose what may be the nature of the considerations which have determined the Government of India to introduce a particular measure. In any case, the policy adopted is the policy of the Government as a whole, and as such, must be accepted and promoted by all who decide to remain members of that Government."

The supremacy of Parliament over the Government of India and that of the Government of India over local Governments was thus finally established : and also the principle of unity within the Indian executives. The importance of both these points will be realized when we come to make our own proposals later on.

Influence of Parliament on the Secretary of State and his Council.

35. Parliament may sometimes be a sleepy guardian of Indian interests ; but the feeling that it may call him at any time to account certainly leads the Secretary of State and his Council to exercise with some straitness both the specific powers of control with which they are particularly invested and also the general power of superintendence which the Government of India Act gives them. We need not dwell on the fact that they manage directly the Home charges (which amount to one-fifth of the total expenditure of India) on account of military equipment, stores, pensions, leave allowances, and the like ; and that they also control the raising of sterling loans. The greater part of their duties consists in the control of the Government of India. The Governor General in Council is required by section 33 of the Government of India Act, 1915, "to pay due obedience to all such orders" as he may receive from the Secretary of State ; and we have to see how this obedience is in fact exacted. Obviously the intensity of control must vary with the interest shown by Parliament on whose behalf the Secretary of State exercises his powers. The relations between Simla and Whitehall vary also with the personal equation. If resentment has been felt in India that there has been a tendency on occasions to treat Viceroys of India as "agents" of the British Government, it is fair to add that there have been periods when Viceroys have almost regarded Secretaries of State as the convenient mouth-piece of their policy in Parliament. Certainly there have been times when the power of the Government of India rested actually far less upon the support of the Cabinet and Parliament than on the respect which its reputation for efficiency inspired. The hands of the Government of India were strong : and there was little disposition to question the quality of their work, so long as it was concerned chiefly with material things, and the subtler springs of action which lie in the mental development of a people were not aroused.

Powers of the Secretary of State.

36. We must distinguish, however, between the measure of control which has been exercised and the powers of control which the existing system provides. These are very great. All projects for legisla-

tion, whether in the Indian or provincial legislatures, come Home to the Secretary of State for approval in principle. Before him are laid all variations in taxation or other measures materially affecting the revenues and in particular the customs; any measures affecting the currency operations or debt; and, generally speaking, any proposals which involve questions of policy or which raise important administrative questions or involve large or novel expenditure. To set out all the Secretary of State's specific powers would be a long task: but we may mention the construction of public works and railways; the creation of new appointments of a certain value, the raising of the pay of others, or the revision of establishments beyond a certain sum; grants to local Governments, or loans to Native States; large charges for ceremonial or grants of substantial political pensions; large grants for religious or charitable purposes; mining leases and other similar concessions; and additions to the military expenditure, as classes of public business in respect of which he has felt bound to place close restrictions upon the powers of the Governments in India. For some such restraints we have no doubt that there is solid constitutional justification. The Government of India exercise immense powers over a vast and populous country, and in the absence of popular control in India it is right that they should, in matters of importance, be made to feel themselves amenable to Parliament's responsible Minister and that he should exercise conscientiously the powers which Parliament entrusts to him. Nor should we underrate the value of the permanent officials at the India Office in contributing to maintain continuity of policy in a country where the high authorities are constantly changing. This consideration is of great importance. But as we shall show hereafter we think that the time may now have come when the detailed control of the India Office might with advantage be relaxed.

Development of British dominions.

37. Deferring to the next chapter our account of the legislative machinery of India, we will now describe how the executive government of the country is constructed and conducted in India itself. The old settlements were administered by a president or governor and a large council, composed of from twelve to sixteen of the senior servants of the Company. Everything was decided by a majority vote, an arrangement that Clive found so unworkable for serious business in Bengal that he set up a select committee as the real instrument of government. The three presidencies were independent of each other, and each government was absolute within its limits, subject to the distant and intermittent control of the Directors at Home. But the need for a common policy in the face of foreign enemies was apparent; and when the disorder of the Company's finances and suspicions about the fortunes amassed by its servants in India drove Parliament to intervene, it was wisely decided to create one supreme government in the country. The grant of the *Diwani* in 1765 made Bengal the predominant presidency, and therefore the Regulating Act converted its Governor in Council into a Governor General in Council and gave

him superintending authority over Bombay and Madras. How shadowy Warren Hastings found his authority at first is well-known: against his will the aggressive policy of first the Bombay and later on the Madras Government involved him in wars, which taxed to the utmost his courage and resources. A curious echo of this state of things lingers in the language of section 45 (2) of the Government of India Act, 1915, which still contemplates the possibility of a provincial Government making peace and war. For a long time indeed the mere isolation of the western and southern presidencies attenuated the authority of the Governor General in Council over them. His control became effective only as the British dominions extended till they became contiguous and communications between them improved. The Madras presidency took practically its present shape after the fall of Tipu Sultan in 1799; and the presidency of Bombay was settled on almost its present lines in 1818 after the third Mahratta war. But the Bengal presidency under the Governor General in Council continued to grow. Lord Lake's campaign against the Mahrattas added what is roughly the province of Agra to the Company's dominions. From that time forward the security of the Bengal presidency was the dominant reason for further extensions of the frontiers, and thus Lower Burma, Assam, the Punjab, Jhansi, Nagpur, and Oudh, as they were successively absorbed, were added unto it. Sind, which was annexed before the conquest of the Punjab, was attached to Bombay as being the only base from which it could be conveniently administered. The Governor General in Council was looked upon as in immediate control of all new territories; but it was apparent that he could not directly administer so unwieldy a charge. The idea of instituting a fourth presidency was entertained, and for a very brief space actually put into practice, but it was shortly afterwards abandoned in favour of the creation of a lieutenant-governorship of the North-Western Provinces in 1836; and in 1854 the Governor General in Council divested himself of direct responsibility for Bengal, which also came under a lieutenant-governor. An Act of that year also gave the Governor General in Council authority to provide for the administration of any territory which there was no legal power to place under a lieutenant-governor by creating it into a chief commissionership. From that time onwards this power was regularly used, and so the Government of India came to assume its present character of a supervising and directing authority over the administration of the entire country.

The Executive Council of the Governor General.

38. Originally the Council of the Governor General worked together as a board and decided all questions by a majority vote. The difficulties which Warren Hastings encountered from this arrangement are notorious. Lord Cornwallis insisted on being given enlarged powers, and to meet his views the provision which now enables the Governor General to override his Council and to act on his own responsibility in matters of grave importance was inserted. The power has been rarely exercised, though Lord Lytton used it in 1879 to abolish

partially the import duty on English cotton goods. The appointmen of special members of Council for law and finance initiated the portfolio system, and the great increase of work which resulted from Lord Dalhousie's energetic policy demonstrated its necessity. Lord Canning finally abandoned the attempt to administer a great empire by the cumbrous method of collective business, and introduced the present system by which the ordinary work of the departments is distributed among the members and only the more important cases are referred to the Governor General or dealt with collectively. Recent events have, however, thrown some light upon the drawbacks attending the discretionary limitation of collective deliberations. The Council has been from time to time enlarged and now consists of six ordinary members and the Commander-in-Chief. Three of the ordinary Members must have had ten years' service under the Crown in India and one must be a barrister of five years' standing. At the present time the portfolios are Foreign and Political (which is taken by the Governor General himself), Home, Revenue, Finance, Legislative, Commerce and Industry, Education and Army. The particular allotment of their work between them is unimportant. But it is essential to our purpose to see what the work of government in so vast a country comprises and how the burden is in practice shared between the Government of India and its delegates the provincial Governments.

Growth of the provincial system.

39. First, however, it may be convenient to explain more fully what the provincial Governments are. British India is made up of nine major provinces and six lesser charges. The former comprise the three presidencies of Madras, Bombay, and Bengal; the four lieutenant-governorships of the United Provinces, the Punjab, Burma, and Bihar and Orissa; and the two chief commissionerships of the Central Provinces and Assam. The minor charges are the North-West Frontier Province, British Baluchistan, Coorg, Ajmer, the Andamans, and Delhi. Madras and Bombay grew into governorships out of the original trading settlements. Sind, as we have seen, was added to the latter soon after its conquest in 1843. The original presidency of Bengal was elevated from a governorship to a governor generalship by the Act of 1773. We have explained how India then consisted of the three presidencies only, and how military and political exigencies led to a great extension of the Bengal presidency to the North-West. Later legislation relieved the Governor General by empowering him to create the lieutenant-governorship of the North-Western Provinces in 1836, and further to rid himself of the direct administration of Bengal, including Bihar and Orissa, by creating the lieutenant-governorship of Bengal. The Punjab was the next province formed. Annexed in 1849, it was governed first by a board of administration and then by a chief commissioner. After the Mutiny Delhi was transferred to it and it became a lieutenant-governorship. Oudh was annexed in 1856 and placed under a chief commissioner, whose office was merged in that of the lieutenant-governor of the

North-Western Provinces in 1877. The North-Western Provinces and Oudh were renamed the United Provinces of Agra and Oudh in Lord Curzon's time. Lower Burma was formed into a chief commissionership in 1862; Upper Burma was added in 1886 and the province became a lieutenant-governorship in 1897. The Central Provinces, formed out of portions of the North-Western Provinces and certain lapsed territories, were placed under a chief commissioner in 1861. In 1903 Berar, which had long been under British administration, was taken over on a perpetual lease from the Nizam and linked to the Central Provinces. Assam, annexed in 1826, was added to Bengal, from which it was again severed and made a chief commissionership in 1874. In 1905 the partition of Bengal converted the eastern half of the province together with Assam into one lieutenant-governorship under the name of Eastern Bengal and Assam, and the western half into a second lieutenant-governorship under the name of Bengal. This arrangement was modified in 1912: Assam became once more a chief commissionership, Bengal a presidency, and Bihar and Orissa a lieutenant-governorship. The North-West Frontier Province was created for purposes of political security in 1901 by detaching certain Punjab districts. British Baluchistan was formed into a chief commissionership in 1887. Coorg was annexed in 1834 and is administered by the Resident in Mysore. Ajmer, ceded in 1818, is similarly administered by the Agent to the Governor General in Rajputana. The Superintendent of the penal settlement of Port Blair administers the Andamans and Nicobar Islands as chief commissioner. Delhi comprises a small area enclosing the new capital city, which was created a separate province under a chief commissioner on the occasion of the King-Emperor's durbar. In this way the present map of British India was shaped by the military, political, or administrative exigencies or conveniences of the moment, and (except in the case of the reconstitution of Bengal) with small regard to the natural affinities or wishes of the people. The point is of supreme importance when we have to consider the future development of India, and we shall have occasion to return to it in a later chapter.

The Presidencies.

40. Some writers have described all the provincial Governments as merely agents for the Government of India, and in a sense, as we shall see, this is true. But it must be remembered that the provinces differ in status not a little. We may gather them into five categories. First come the three presidencies, distinguished not merely by their history and traditions and the presence of great centres of commerce, but also by their more elaborate system of government. Each is administered by a governor with a council of three members, including since 1909 as a matter of unbroken practice one Indian member. In an emergency the Governor can overrule his colleagues, but otherwise the decisions are those of a majority. Presidency governments still enjoy some relics of their former independence: they have the right to correspond direct with the Secretary of State unless financial issues are involved; they can

appeal to him against orders of the Government of India ; they have full discretion in selecting for important offices under them ; and they are less liable to supervision than other provinces in the administration of their revenue and their forests.

The Lieutenant-Governorships.

41. Next rank the four lieutenant-governorships. The oldest and also by far the heaviest charge is the United Provinces with its population of 48 millions. It has been recognized that the burden which its administration imposed upon a single man was too heavy, and proposals to endow it with an executive council were frustrated only by the adverse resolution of the House of Lords in 1915. The newest creation is Bihar and Orissa, a product of the remodification of Bengal in 1912. The attachment of Orissa to the rest of the province was dictated by the need of providing for areas which the new presidency could not absorb rather than by considerations of convenience or economy. Part of Bihar and Orissa is no doubt very densely populated ; but it was mainly because those portions of the former Bengal which are now included in it had enjoyed since 1910 an administration by a lieutenant-governor in council that it was deemed impossible in 1912 to withhold a similar equipment from the youngest and in area smallest of the lieutenant-governorships. The presence or absence of an executive council, however, though it affects the disposal of provincial business, does not materially alter the relations of a lieutenant-governor with the Government of India.

The Central Provinces and Assam.

42. The two chief commissionerships of the Central Provinces and Assam rank next. In theory all the portions of British India which are not included in a governorship or lieutenant-governorship are under the immediate authority and management of the Governor General in Council, who can give all necessary orders and directions for their administration. A chief commissioner is therefore still regarded as administering his province as a delegate of the Governor General, who may resume or modify such powers as he has himself conferred. In official terminology chief commissionerships are generally referred to as local administrations rather than as local Governments. But in practice the powers entrusted to a chief commissioner are nearly as wide as those of a lieutenant-governor, and with the creation of legislative councils in Assam and the Central Provinces any distinction in administrative methods is tending to disappear.

Baluchistan and the North-West Frontier Province.

43. The two frontier provinces of British Baluchistan and the North-West Frontier Province form a small class by themselves. They are administered by chief commissioners who are also agents to the Governor General in respect of political relations with adjoining tribal territories ; they are in fact more directly than any of the foregoing provinces under the control of the Government of India, acting through its Foreign and Political Department, both because political questions are of preponderant importance and

also because they lack the financial resources and powers which more settled provinces enjoy.

44. In the last category come Ajmer-Merwara, Coorg, Delhi, and the Andamans. These are administered under the direct control of the Government of India, acting except as regards the first, mainly through its Home Department. The first three are practically districts and the fourth is a penal settlement.

Minor administrations.

45. Let us now try to realize the burden of government in India. If we set aside imperative necessities which may lead to a great temporary expansion of governmental activity, as in England at present, and also theories of the intrinsic merits of State management which find favour with some schools of political thought, we may say broadly that the degree of intervention by the State in the lives of its people varies with their own capacity and disposition to direct the material business of their lives. The great mass of India's people are illiterate peasants, living in mud-built villages, and cultivating small holdings of land, the produce of which is only too often threatened by drought or deluge. The physical facts of India, the blazing sun, the enervating rains, have doubtless coloured the mental outlook of the masses of her people. The Hindu caste system, with its segregating effect, circumscribes the range of public opinion by limiting the range of personal sympathies, and tends to perpetuate many customs and usages which progressive Indians themselves recognize as a grievous impediment to progress. Moreover the political disintegration which preceded British rule utterly destroyed any incentive to material improvement or progress by laying its results at the mercy of the first raider. It was inevitable, therefore, that when the government of the country was assumed by the vigorous and practical British race they should have formed a conception of their responsibilities towards the people wider than that accepted for their own land. We need not quote from the immense amount of eloquent testimony which writers on India have offered to the admirable character of the work which has been done. We are content to present the difference in this respect between government in England and India in the unadorned language of the Decentralization Commission :—

Functions of government in India.

"The Government (in India) claims a share in the produce of the land ; and save where, as in Bengal, it has commuted this into a fixed land tax, it exercises the right of periodical reassessment of the cash value of its share. In connexion with its revenue assessments, it has instituted a detailed cadastral survey, and a record-of-rights in the land. Where its assessments are made upon large landholders, it intervenes to prevent their levying excessive rents from their tenants ; and in the Central Provinces it even takes an active share in the original assessment of landlords' rents. In the Punjab, and some other tracts, it has restricted the alienation of land by agriculturists to non-agriculturists. It undertakes the management of landed estates when the proprietor is disqualified from attending to them by age, sex, or infirmity, or, occasionally, by pecuniary embarrassment. In times of famine it undertakes relief works and other remedial measures upon an extensive scale. It manages a vast forest property and is a large manufacturer

of salt and opium. It owns the bulk of the railways of the country and directly manages a considerable portion of them and it has constructed, and maintains, most of the important irrigation works. It owns and manages the postal and telegraph systems. It has the monopoly of note issue, and it alone can set the mints in motion. It acts, for the most part, as its own banker, and it occasionally makes temporary loans to presidency banks in times of financial stringency. With the co-operation of the Secretary of State, it regulates the discharge of the balance of trade, as between India and the outside world, through the action of the India Council's drawings. It lends money to municipalities, rural boards, and agriculturists, and occasionally to the owners of historic estates. It exercises a strict control over the sale of liquor and intoxicating drugs not merely by the prevention of unlicensed sale, but by granting licenses for short periods only, and subject to special fees which are usually determined by auction. In India, moreover, the direct responsibilities of Government in respect of police, education, medical and sanitary operations, and ordinary public works are of a much wider scope than in the United Kingdom. The Government has further very intimate relations with the numerous Native States, which collectively cover more than one-third of the whole area of India, and comprise more than one-fifth of its population. Apart from the special functions narrated above, the Government of a sub-continent containing nearly 1,800,000 square miles and 300,000,000 people is in itself an extremely heavy burden, and one which is constantly increasing with the economic development of the country and the growing needs of populations of diverse nationality, language, and creed."

Sphere of the Government of India.

46. It is time to see how the tasks of government are apportioned between the Government of India and the local Governments. At the outset, it is obvious that their responsibility for the entire country constrains the Government of India to keep some functions of government entirely in their own hands. Since the Madras and Bombay military commands were abolished in 1893, the defence of India has been treated formally, as it had long been in fact, as an undivided charge. Connected with defence is the diplomatic business of relations with bordering Asiatic powers, and with this again the administration of bastions of territory like the Frontier Province and British Baluchistan. There is also the business of political relations with the numerous Native States, which is mainly, though not yet wholly, the sole concern of the Government of India. In a separate category come the administration of tariffs, the currency and the exchanges, and the debt, and also of the great commercial services like the post office and the railways, all of which concern the whole country. Again the central Government controls the business of audit and accounting, and has maintained it on a uniform system for the whole country. But responsibility for everything else is shared in greater or lesser measure by the Government of India with the provinces: and it is well to understand on what basis the distribution rests, if we are to be on sure ground in making proposals which must radically affect it.

Relations with the provincial Governments.

47. Eighty-four years ago the Court of Directors set themselves to define the right principles of demarcation. They reminded Lord William Bentinck emphatically that the whole civil and military

administration of India was committed to the hands of his Government by the Act of 1833 and that for what was good or evil in it the honour or dishonour would redound on him. They criticized the control previously exercised over the presidency Governments as having generally taken the invidious and ineffective form of *ex post facto* intervention. They wrote :—

"It is evidently the object of the present Act to carry into effect that intention of the legislature to which we have alluded. Invested as you are with all the powers of government over all parts of India, and responsible for good government in them all, you are to consider to what extent, and in what particulars, the powers of government can be best exercised by the local authorities, and to what extent, and in what particulars, they are likely to be best exercised when retained in your own hands. With respect to that portion of the business of government which you fully confide to the local authorities, and with which a minute interference on your part would not be beneficial, it will be your duty to have always before you evidence sufficient to enable you to judge if the course of things in general is good, and to pay such vigilant attention to that evidence as will ensure your prompt interposition whenever anything occurs which demands it."

And again five years later :—

"Although a minute interference on your part in the details of the local administration of the subordinate presidencies is neither desirable nor practicable, yet we should hold you but ill-acquitted towards those whose interests are committed to your charge, if you should allow to pass without comment and, if necessary, without effective interference, any measures having, in your opinion, an injurious tendency either to one presidency or to the Empire at large."

Development of the existing system.

48. We imagine that the Directors intended that Lord William Bentinck's Government should define the matters in which their interference would be rare, and those in which their control would be constant; but we find that no such formal differentiation was actually ever attempted. Such discrimination between functions as obtains at present is the result of gradual administrative devolution. As the Decentralization Commission says :—

"The difficulty of defining the exact limits between a 'just control, and petty vexatious, meddling interference' recognized by the Court of Directors in 1834, still remains. It is easy to say that the central Government should confine itself to laying down general principles, and that the detailed application of these should be left in the hands of the subordinate Governments ; but in practice it is sometimes extremely difficult to say what are mere details, and whether these may not affect the application of a principle. Again, what is normally a detail, properly left to a local Government, may at a period of political stress or under altered circumstances become a matter in which the Government of India, and even the Secretary of State, must assert their responsibilities. It is, therefore, of paramount importance, that the relations between the Government of India and the provincial Governments should be readily adaptable to new or changing conditions, and should not be stereotyped by anything in the nature of a rigid constitution."

Obviously there are tendencies pulling in two opposite directions. Material development, improved communications, the raising of standards of administration, and the interest taken by Parliament in Indian affairs all tend to throw work on the central power ; just as the want of detailed knowledge and the variety of local conditions make for

provincial liberty of action. The spread of enlightenment has on the whole probably operated to cast more work upon the Government of India; for the growth of national feeling among the educated classes has raised many questions of a general nature with which only the Government of India could deal and increased the habit of invoking its intervention.

Supervision by the Government of India.

49. Let us glance at the list of work which the administrative departments of the Government of India deal with not at first-hand, but as supervising and appellate authority. To the Home Department are referred questions from the provinces affecting the Indian Civil Service, internal politics, jails, police, the civil medical service, law and justice, and courts; the departments under the Revenue Member are similarly concerned with revenue, surveys, forests, agriculture, veterinary administration, meteorology, and famine and public works and irrigation; the Political Department with such Native States as are in political relations with local Governments; the Finance Department with opium, stamps, income-tax, and the pay, leave, and pensions of the services; the Department of Commerce with commerce, exhibitions, factories, mining, explosives, emigration, fisheries, salt, and excise; the Department of Education with education, local self-government, sanitation, and so forth. All these spheres of business are primarily the concern of local Governments, but in all of them the Government of India exercise an unquestioned right of entry, either of their own instance or on appeal. The measure of interference actually practised varies with circumstances, and to a great extent depends on the financial system — discussed in chapter V—for which place therefore we reserve its closer examination.

Extent of interference in provincial affairs.

50. The text-books generally describe the Government of India as interfering very little with the details of provincial administration. Sir Bampfylde Fuller writing as an *ex*-Lieutenant-Governor, says that the Government of India, as a rule, content themselves with laying down general principles and watching the effect that is given to them, but keep a very strict hand upon the creation of new appointments or the augmentation of salaries. We have no doubt that this correctly expresses the general aim. But in such a matter all opinion is relative. Compared with past days, provincial Governments enjoy great liberty of action; but, as we shall show in due course, substantial restrictions are imposed on them by the dominant conception that the entire government system is one indivisible whole and amenable to Parliament. Even though the Decentralization Commission accepted this governing condition, they thought that both the Indian Government and in their turn the provincial Governments also had in the exercise of the control with which they were invested been dominated too much by considerations of administrative efficiency.

"They have, we think, paid too little regard to the importance of developing a strong sense of responsibility amongst their subordinate agents and of giving

sufficient weight to local sentiments and traditions. In our opinion, the burden of work could be materially diminished if the Indian Government were to refrain from interfering in unnecessary detail with the actions of the authorities subordinate to them, an interference which results in large measure in every administrative authority in India having to do over again work already accomplished at a stage below. Future policy should be directed to steadily enlarging the spheres of detailed administration entrusted to provincial Governments and the authorities subordinate to them and of recognizing that they must definitely dispose of an increasing share of the ordinary work of government."

We understand that public and official opinion alike endorsed this criticism. But, as we have said, the question now turns mainly on new and bigger considerations. Official control from above is incompatible with popular control from within, and the admission of the latter justifies, indeed demands, a corresponding reduction of the former. Parliament, the Secretary of State, and the Government of India must all relax control if the legislative councils in the provinces are to share the responsibility for the administration. Similarly provincial Governments must abate their superintendence where popularly-constituted subordinate authorities have been entrusted with functions of their own.

Chapter III.—Growth of the Legislative Councils.

Introductory.

51. To explain the constitutional position with which we have to deal it is necessary to review as shortly as possible the growth of legislative bodies in India.

Beginnings of legislative power.

52. The indigenous law of India is a law of status, derived in the case of Hindus from the Shastras and in that of Muslims from the Qoran, while in the case of both there grew up also a body of customary law varying with the locality. Although the first European settlements in the country were on sufferance of Indian powers yet the personal character of the law of India and the nature of many of its principles and penalties made it impossible for men of a different religion and habits of thought to adopt it for their own use. From the very first the English traders assumed that they carried their own law with them. In fact, the germ of legislative power lies embedded in Elizabeth's Charter, which authorized the East India Company to make reasonable "laws, constitutions, orders, and ordinances," not repugnant to English law, for the good government of the Company and its affairs. Similar privileges were affirmed by the Charters of her Stuart successors. Of the laws made under these earlier Charters not a trace remains: we infer that they were concerned with the monopoly of trade and the repression of interference. The Charter of William III made no mention of, and may be held to have withdrawn, the power of legislation; but George I's Charter of 1726 invested the Governors in Council of the three presidencies, with power "to make, constitute, and ordain bye-laws, rules, and ordinances for the good government and regulation of the several corporations thereby created, and of the inhabitants of the several towns, places and factories aforesaid respectively."

Results of the *Diwani*.

53. Accordingly from 1726 onwards the three presidency councils proceeded to make laws independently of each other within their several jurisdictions. But at this stage we come on a new source of legislative power. After the grant of the *Diwani* in 1765 by which the Company assumed the revenue administration of Bengal, Bihar, and Orissa, Warren Hastings, then Governor of Bengal, set up courts and offices for the disposal of judicial and revenue business, in virtue not of any powers derived from Parliament, but of the authority which had been delegated to the Company by the Moghul Government. Indeed it was not till 1861, that the last traces of the dual system of courts was swept away.

The Regulating Act, 1773.

54. The Regulating Act of 1773 subordinated the presidencies and Councils of Madras and Bombay to the Governor General and Council of Bengal,

who were thereby constituted the Supreme Government, and required the Madras and Bombay Governments to send to Bengal copies of all their Acts and orders; but we cannot find that the Bengal Government had any power of modifying them. At the same time the Act of 1773 took the unusual course of subjecting the legislative authority of the Governor General and Council to the veto of the Supreme Court. The hostile relations which existed between the Court and Council probably explain the comparative absence of legislation during the period from 1773 to 1780; but by 1780 the Council had triumphed, and Warren Hastings passed his regulations for the administration of justice in provincial courts without regard to the Court. The Amending Act of 1781 justified his action: it gave the Government the important power of making regulations for provincial courts without reference to the Supreme Court. A few years later the powers of the other two Governments were similarly enlarged. Copies of all regulations passed in Madras and Bombay were sent to Calcutta, but it does not appear that they were submitted for approval before being passed. The legislative power of the Governor General's Council was confined both by its constitution and in practice to the presidency of Bengal.

The Declaratory Act, 1780.

55. We may note that the advent of English lawyers as judges of the Supreme Court in 1773 led to an ill-advised attempt to apply the English law to Europeans and Indians alike; but this error was corrected by the Declaratory Act of 1780, which directed that their own law and usage should be applied to the people of the country. The door was thereby not closed, however, to such legislative modifications of the rules of the Shastras or the Qoran as the public mind became ripe for, under the influences of Western jurisprudence, case decisions, and the growth of education and enlightenment; in which direction indeed the Indian legislatures have from time to time rendered services of incalculable benefit to the country.

Growing confusion of the legislative system.

56. In 1813 the powers of all three councils were enlarged and at the same time subjected to greater control by the Home authorities. Their regulations were applied to all persons who should proceed to the East Indies within the limits of their Governments. They were given power to make articles of war and to impose customs duties and other taxes. For another twenty years the three councils continued to make regulations, and in so doing constantly added to the complexity of the law system which the courts were expected to interpret. The confusion which by this time characterized the legal and judicial system of the country may be readily conceived. It rested on no less than five different bodies of statute law, besides having to pay heed also to the English common law, Hindu and Muhammadan law and usage, charters and letters patent, regulations authorized by statute or deriving their validity either from the Company's general powers of government or from their acquired rights as successors to native Govrnments, circular orders of courts, and treaties made by the Crown or the Indian Government. It is not surprising that the

Calcutta Judges declared roundly that "no one can pronounce an opinion or form a judgment, however sound, upon any disputed right of persons, respecting which doubt and confusion may not be raised by those who may choose to call it in question."

Its simplification and correction.

57. In such a state of things the statute of 1833 was passed in Lord William Bentinck's time. It aimed deliberately at simplifying the legislative machinery and also at correcting the errors of the past. With the former object the Governments of Madras and Bombay were drastically deprived of their powers of legislation, and left only with the right of proposing to the Governor General in Council projects of the laws which they thought expedient. For the latter purpose the Indian Law Commissioners were established, and the work of regulating the courts and codifying the penal and procedure law was undertaken. The central Council was strengthened by the addition of a law member not in the Company's service whose duties were to be confined to legislation. Lawgiving by purely executive order such as had produced the three presidency codes of regulations was thenceforth to cease.

Beginning of the Indian Legislative Council.

58. In place of three law-making executives India thus acquired one central though rudimentary legislature. But this reform was found to have defects of its own. The members of the Governor General's Council belonged to the Bengal service, and their lack of local knowledge was felt to be a serious drawback to the Council's handling of Madras or Bombay questions. To Lord Dalhousie belongs the credit of differentiating the legislative machine much more decisively from the executive. The Act of 1853, for which he was in great part responsible, left the Governor General's Council as the one legislative power competent to enact laws for the whole of British India, but provided for the defect disclosed in the Act of 1833 by introducing representative members from the sister presidencies. The Council when acting in its legislative capacity was enlarged by the addition of six new members called legislative members, of whom two were English judges of the Calcutta Supreme Court and the other four were officials appointed by the local Governments of Madras, Bombay, Bengal, and Agra. This was the first recognition of the principle of local representation in the Indian legislature. At the same time the fourth ordinary member of council, who had been hitherto merely a member for legislative business, became a full executive member. These changes meant that in a full council if any single member of the executive were absent, the members of the Government were in a minority. On every legislative question there was at least to be one member present with local knowledge, and what may be called the English law element in the council was greatly increased. Discussions became oral instead of being conducted in writing. The examination of Bills was performed by select committees instead of by a single member, and for the first time the legislative business of India was conducted in public. We find legislation

for the first time treated as a special function of Government requiring special machinery and special processes.

Defects of its early form.

59. But it was soon clear that even Lord Dalhousie's improvements did not suffice to meet the needs of the time. Madras and Bombay still complained of the preponderance of authority which Bengal exercised. The huge extent of territory for which a single council legislated made it impossible for matters to be handled with adequate information and experience. Moreover, the internal governance of the council itself was such that, contrary to the intentions of Parliament, it began to assume the character of a miniature representative assembly, assembled for the purpose of inquiry into, and redress of, grievances. Above all, the terrible events of the Mutiny brought home to men's minds the dangers arising from the entire exclusion of Indians from association with the legislation of the country.

Admission of Indians proposed.

60. We have now reached the critical point of the story at which representatives of Indian opinion were for the first time admitted to the legislature of the country, and need make no apology for quoting a well-known passage from a minute written by Sir Bartle Frere in 1860:—

"The addition of the native element has, I think, become necessary owing to our diminished opportunities of learning through indirect channels what the natives think of our measures, and how the native community will be affected by them. It is useless to speculate on the many causes which have conspired to deprive us of the advantages which our predecessors enjoyed in this respect. Of the fact there can be no doubt, and no one will I think object to the only obvious means of regaining in part the advantages which we have lost, unless he is prepared for the perilous experiment of continuing to legislate for millions of people, with few means of knowing, except by a rebellion, whether the laws suit them or not.

"The durbar of a native Prince is nothing more than a council very similar to that which I have described. To it under a good ruler all have access, very considerable license of speech is permitted, and it is in fact the channel from which the ruler learns how his measures are likely to affect his subjects, and may hear of discontent before it becomes disaffection.

"I cannot think that the plan proposed will even in our presidency towns lead, as has been apprehended, to needless talking and debate, or convert our councils into parish vestries. It is a great evil of the present system that Government can rarely learn how its measures will be received or how they are likely to affect even its European subjects, till criticism takes the form of settled and often bitter opposition."

Establishment of provincial legislatures.

61. Lord Canning decided that though any return to the system which existed before Lord Dalhousie was impossible, a partial return to the still earlier system which prevailed before 1834 was advisable. Once the principle of having local Governments represented in the Indian legislature was admitted, the Governments of Madras and Bombay could not reasonably be expected to be content with the meagre share which they then had in legislation concerning their own presidencies. Rejecting the idea of increas-

ing in his existing council the number of members drawn from the two subordinate presidencies, Lord Canning proposed that the single council should be broken up into three distinct councils—the legislative council of the Governor General at Calcutta and local councils in Madras and Bombay. The lieutenant-governorships of Bengal, the North-Western Provinces, and the Punjab should also be equipped with separate legislatures. To each council he proposed that three non-official members, European or Indian, should be admitted; that all measures of local character not affecting the revenue should fall within the competence of the local councils; that the latter should concern themselves with legislation only; and that business should be so conducted as to allow even Indians unacquainted with English to participate in it. These proposals are remarkable as constituting the first decisive step in the direction of decentralization, and also in that of associating Indians or indeed non-officials at all with the business of legislation.

Events leading up to changes.

62. Various events contributed to precipitate the passing of the Indian Councils Act of 1861. Differences arose between the Supreme Government and the Government of Madras about the income-tax Bill; serious doubts were expressed about the validity of the laws introduced into certain backward areas which were known as non-regulation provinces without enactment by the legislative council; and finally the Governor General's legislative council presented an address asking that certain correspondence between the Secretary of State and the Government of India should be communicated to it. The situation had become strained, and justified Sir Charles Wood's complaint in the House of Commons that, contrary to the intention of its founders, the Council had become a sort of debating society or petty Parliament. He quoted the Chief Justice of Calcutta as saying that the Council "has no jurisdiction in the nature of that of a grand inquest of the nation. Its functions are purely legislative, and are limited even in that respect. It is not an Anglo-Indian House of Commons for the redress of grievances, to refuse supplies, and so forth."

The Indian Councils Act, 1861.

63. Many provisions of the Act of 1861 still form the framework of the internal constitution of India. The Act restored to the Governments of Madras and Bombay the powers of legislation which the Act of 1833 had withdrawn, but with one important distinction. Formerly the laws enacted by the local legislatures had been complete in themselves and came into operation of their own force. Thenceforth the previous sanction of the Governor General was made requisite for legislation by the local councils in certain cases, and all Acts of the local councils required the subsequent assent of the Governor General in addition to that of the Governor. To this extent the Governor General was given direct and personal control over the exercise of all legislative authority in India. For purposes of legislation the Governor General's Council was reinforced by additional members, not less than six, nor more than twelve in

number, nominated for two years, of whom not less than half were to be non-officials. The legislative power of the Governor General in Council was extended over all persons whether British or Indian, foreigners or others, within the Indian territories now under the dominion of Her Majesty, and over all courts of justice and over all places and things within the said territories, and over all British subjects within the dominions of Princes and States in alliance with Her Majesty. The Act also gave legal force to all the miscellaneous rules and orders which had been issued in the newly-acquired territories of the Company (known as the non-regulation provinces) either by extending or adapting to them regulations which had been made for older provinces, or frankly by the executive authority of the Governor General in Council. (A few years later the power of legislating for disturbed or backward tracts by regulations made in executive council was restored to the Governor General by the Act of 1870.) Moreover we find some trace of the old executive power of legislation surviving in the power given to the Governor General, without his Council, in cases of emergency to make temporary ordinances which were not to remain in force for more than six months. The legislative councils were restored in Madras and Bombay by expanding the Governors' executive councils on the same lines as the Governor General's. The Governor General was also directed to establish a legislative council for Bengal and empowered to establish similar councils for the North-Western Provinces and for the Punjab; these two bodies actually came into being in 1886 and 1897 respectively. But we lay stress on the fact that there was no attempt to demarcate the jurisdictions of the central and local legislatures as in federal constitutions. The Governor General's Council could legislate for the whole of India; and the provincial council for the whole of the province, with the reservation that before doing so in respect of certain matters the Governor General's sanction had to be obtained. Finally, the provisions of the Act rebuked the precocity of the council established under the Act of 1853, which had modelled its procedure on Parliament and shown what was considered an inconvenient amount of independence by asking questions about and discussing the propriety of the methods of the executive Government. The functions of the new councils were strictly limited to legislation. They were expressly forbidden to transact any business except the consideration and enactment of legislative measures, or to entertain any motion except a motion for leave to introduce a Bill or having reference to a Bill actually introduced.

Character of the councils thereby established.

64. In summing up these changes we cannot do better than follow the present Lord Macdonnell who, writing 27 years after the Act was passed, was able to adopt with little modification the language in which the author of *Courts and Legislative Authorities in India* had described the position created in 1861.

"The character of the legislative councils established by the Act of 1861 is simply this, that they are committees for the purpose of making laws—commit-

tees by means of which the executive Government obtains advice and assistance in their legislation, and the public derive the advantage of full publicity being ensured at every stage of the law-making process. Although the Government enacts the laws through its council, private legislation being unknown, yet the public has a right to make itself heard, and the executive is bound to defend its legislation. And when the laws are once made, the executive is as much bound by them as the public, and the duty of enforcing them belongs to the courts of justice. In later years there has been a growing deference to the opinions of important classes, even when they conflict with the conclusions of the Government, and such conclusions are often modified to meet the wishes of the non-official members. Still it would not be wrong to describe the laws made in the legislative councils as in reality the orders of Government; but the laws are made in a manner which ensures publicity and discussion, are enforced by the courts and not by the executive, cannot be changed but by the same deliberate and public process as that by which they were made, and can be enforced against the executive or in favour of individuals when occasion requires.

"The councils are not deliberative bodies with respect to any subject but that of the immediate legislation before them. They cannot inquire into grievances, call for information, or examine the conduct of the executive. The acts of administration cannot be impugned, nor can they be properly defended in such assemblies, except with reference to the particular measure under discussion."

Retrospect.

65. The Act of 1861 thus closes a chapter. Its main interest has lain in the gradual construction and consolidation of the mechanical framework of government. The three separate presidencies have come into a common system; much of the intervening spaces has been brought under British rule; the legislative and administrative authority of the Governor General in Council has been asserted over all the provinces and extended to all their inhabitants; and the principle of recognizing local needs and welcoming local knowledge has been admitted, so that local councils have been created or re-created, and a few non-official and even Indian members have been introduced for the purposes of advice. But, partly at least out of anxiety to prevent the authority of the executive from being impaired (as in Warren Hastings' days) by any other rival institution without administrative responsibility, it has been expressly declared that the councils are a mere legislative committee of the Government and are not the germ of responsible institutions. We think it worth noting how the innate tendency of even a few official Englishmen, assembled in a simulacrum of a legislature, to convert it into a parliamentary body positively contributed to retard the introduction of parliamentary ideas for the benefit of the people of India as a whole.

The Indian Councils Act, 1892.

66. But at the next stage we find a decided advance. Whereas in 1861 men said "we had better hear what a few Indians of our own choosing have to say about our laws," they said in 1889 "our laws have positively benefited by Indian advice and criticism; let us have more of it, and if possible let the people choose the men they send to advise us." The measure which eventually took shape as the Act of 1892 was initiated by discussions in Lord Dufferin's time in which Sir George Chesney, Sir Charles Aitchison, and Mr. Westland took prominent part. We should like to bear testimony to the breadth of outlook

and wisdom that marks their deliberations. The position as they then conceived it was that a limited but important section of Indian opinion demanded advance; elected chambers with power to control the executive were a premature conception because no electorates existed; but reforms were needed both in order to supply the councils with the local knowledge which was lacking and also to give them more liberty and power. We take, for instance, the following passage from Sir Charles Aitchison, as stating with great judgment the governing conditions of the problem which presented itself:—

"In my note of 19th January 1888, written with reference to the request of the Chambers of Commerce and other public bodies that the annual Imperial budget should be submitted to discussion in the Legislative Council of the Governor General, I pointed out that the proposal involved very much wider issues, and was in reality only the first step towards giving the legislature power of interpellation in executive affairs and of criticizing and controlling the executive Government in every department of the administration: a power which Parliament had deliberately withheld when the Indian Councils Act was framed. I therefore suggested that the question of general policy underlying the proposal should first be settled; that any changes which commend themselves should first be made in the legislative councils of local Governments, and their effect waited for before taking steps in the supreme legislative council which might prove unwise and would certainly be irrevocable; that in any case the time had come when large measures of decentralization could be adopted and the powers of local Governments could be increased with advantage to the conduct of affairs, relief to the Government of India, and corresponding economy; and that such decentralization was a necessary prelude to any enlargement of the powers and functions of the local legislative councils.

"Obviously it is an easier matter to popularize the local than the Imperial Council, and the risk on untried paths is less serious. Decentralization is therefore an essential preliminary. There is no room for local councils while the Government of India and the Secretary of State practically retain everything of importance and interest, and even much that is trifling and unimportant, in their own hands. If councils are to be of any use, a sphere must be provided within which their influence can be felt and their opinion will be potent in the settlement of affairs. As a mere arena of *ex post facto* debate councils will be little else than mischievous. Such debates avowedly lead to no practical action, and are apt to degenerate into acrimonious invective. As a means of expounding and explaining Government policy and measures, councils have no doubt a limited use, but such as will never satisfy the requirements of the day. More harm indeed than good may be done if the explanations are blundering, and especially if they are not perfectly frank and unreserved. The true use of councils, in my opinion, is as consultative bodies to help Government with advice and suggestion. It is with a view to this rather than to interpellation or debate and criticism that their machinery should be reorganized."

Lord Dufferin's Committee.

67. We are impressed with the bold approach which the members of Lord Dufferin's Committee were prepared to make even thirty years ago towards the position in which we now find ourselves. They recommended for example that the councils should see papers freely and originate advice or suggestions; that debates on such advice or suggestions should be permitted; and that the estimates connected with local finance should be referred to a standing committee and debated if necessary in council. They also were concerned to bring into public affairs the gentry and nobility of the country; and for this purpose they devised a council which should

consist of two orders or divisions both containing some official members. They made the radical suggestion that election should be introduced as far as possible—in the first division directly, on a high property qualification, and in the second division indirectly, by local bodies and the universities. They advised that care should be taken to secure the fair representation of all classes; that power should be reserved to Government to pass measures in certain cases against the votes of a majority in council; and that councils should be of moderate size and not more than two-fifths elected. In these recommendations it is interesting to encounter the germ of proposals which bulks largely in our present inquiry, for standing committees, grand committees, upper houses, reserved and transferred subjects, and the like.

Lord Dufferin's views.

68. Lord Dufferin's view of the situation is contained in the following noteworthy passage:—

"It now appears to my colleagues and to myself that the time has come for us to take another step in the development of the same liberal policy, and to give, to quote my own words, 'a still wider share in the administration of public affairs to such Indian gentlemen as by their influence, their acquirements, and the confidence they inspire in their fellow-countrymen are marked out as fitted to assist with their counsels the responsible rulers of the country.' But it is necessary that there should be no mistake as to the nature of our aims, or of the real direction in which we propose to move. Our scheme may be briefly described as a plan for the enlargement of our provincial councils, for the enhancement of their status, the multiplication of their functions, the partial introduction into them of the elective principle, and the liberalization of their general character as political institutions. From this it might be concluded that we were contemplating an approach, at all events as far as the provinces are concerned, to English parliamentary government, and an English constitutional system. Such a conclusion would be very wide of the mark; and it would be wrong to leave either the India Office or the Indian public under so erroneous an impression. India is an integral portion, and it may be said one of the most important portions of the mighty British Empire. Its destinies have been confided to the guidance of an alien race, whose function it is to arbitrate between a multitude of conflicting or antagonistic interests, and its government is conducted in the name of a monarch whose throne is in England. The executive that represents her *imperium* in India is an executive directly responsible, not to any local authority, but to the Sovereign and to the British Parliament. Nor could its members divest themselves of this responsibility as long as Great Britain remains the paramount administrative power in India. But it is of the essence of constitutional government, as Englishmen understand the term, that no administration should remain at the head of affairs which does not possess the necessary powers to carry out whatever measures or policy it may consider to be 'for the public interest.' The moment these powers are withheld, either by the Sovereign or Parliament, a constitutional executive resigns its functions and gives way to those whose superior influence with the constituencies has enabled them to overrule its decisions, and who consequently become answerable for whatever line of procedure may be adopted in lieu of that recommended by their predecessors. In India this shifting of responsibility from one set of persons to another is, under existing circumstances, impossible; for if any measure introduced into a legislative council is vetoed by an adverse majority, the Governor cannot call upon the dissentients to take the place of his own official advisers, who are nominated by the Queen-Empress on the advice of the Secretary of State. Consequently the vote of the opposition in an Indian Council would not be given under the heavy sense of responsibility which attaches to the vote of a dissenting majority in a constitutional country; while no responsible executive could be required to carry

on the government unless free to inaugurate whatever measures it considers necessary for the good and safety of the State. It is, therefore, obvious, for this and many other reasons, that, no matter to what degree the liberalization of the councils may now take place, it will be necessary to leave in the hands of each provincial Government the ultimate decision upon all important questions, and the paramount control of its own policy. It is in this view that we have arranged that the nominated members in the Council should outnumber the elected members, at the same time that the Governor has been empowered to overrule his council whenever he feels himself called upon by circumstances to do so.

" But, though it is out of the question either for the supreme or for the subordinate Governments of India to divest themselves of any essential portion of that Imperial authority which is necessary to their very existence as the ruling power, paramount over a variety of nationalities, most of whom are in a very backward state of civilization and enlightenment, there is no reason why they should not desire to associate with themselves in council in very considerable numbers such of the natives of India as may be enabled by their acquirements, experience, and ability to assist and enlighten them in the discharge of their difficult duties. Nor can it be doubted that these gentlemen, when endowed with ample and unrestricted powers of criticism, suggestion, remonstrance, and inquiry will be in a position to exercise a very powerful and useful influence over the conduct of provincial and local public business which alone it is proposed to entrust to them. As inhabitants of the country, as intimately associated with its urban and rural interests, as being in continual contact with large masses of their fellow-countrymen, as the acknowledged representatives of legally constituted bodies, or chosen from amongst influential classes, they will always speak with a great weight of authority; and as their utterances will take place in public, their opinions will be sure to receive at the hands of the press whatever amount of support their intrinsic weight or value may justify. By this means the field of public discussion will be considerably enlarged, and the various administrations concerned will be able to shape their course with the advantage of a far more distinct knowledge of the wishes and feelings of the communities with whose interests they may be required to deal than has hitherto been the case—for those wishes and feelings will be expressed, not, as at present, through self-constituted, self-nominated, and therefore untrustworthy, channels, but by the mouths of those who will be the legally constituted representatives of various interests and classes, and who will feel themselves, in whatever they do or say, responsible to enlightened and increasing sections of their own countrymen."

All that the Government hoped to do, he added, was by associating with them in the task of administration a considerable number of persons " selected and elected " from the educated classes to place themselves in contact with a larger surface of Indian opinion, and thus to multiply the channels by which they would ascertain the wants and feelings of the various communities for whose welfare they were responsible.

Introduction of elections for provincial councils.

69. Lord Dufferin left India shortly after these words were written, and the Secretary of State's reply was addressed to his successor. Lord Cross rejected the cardinal recommendation that for the popular element in councils recourse should be had as far as possible to the principle of election, and said that he thought " it would be unwise to introduce a fundamental change of this description without much more positive evidence in its favour than was forthcoming." The system was unfamiliar to Oriental ideas, and had only been tried on a small scale in local bodies. But Lord Lansdowne's Government stood to their guns. They urged that they should not be precluded from resort to some form of election

where conditions justified belief in it; and they asked for power to make rules for the appointment of additional members by nomination or otherwise. They had their way. There are few more unobtrusive provisions in the statute book than the once famous "Kimberley clause" (due really to Lord Northbrook) which is the basis of section 74 (4) of the Government of India Act, 1915. That clause, while purporting merely to empower the Governor General in Council with the sanction of the Secretary of State in Council to make regulations as to the conditions of nomination of the additional members, in reality effected a revolution in the constitution. Her Majesty's Ministers had refused to recognize the principle of election; but the official spokesman of Government conceded in the most guarded terms that the door was not barred against it. Mr. Curzon said that—

"It would be in the power of the Viceroy to invite representative bodies in India to elect or select or delegate representatives of themselves and their opinions to be nominated to those houses, and thus by slow degrees, by tentative measures —and in a matter like this measures cannot be otherwise than tentative—we may perhaps approximate in some way to the ideal."

Mr. Gladstone speaking for the Opposition was quick to pin the Government down to a declaration that the experiment of election was to receive as reasonable a trial as the circumstances of India permitted.

"The great question we have before us—the question of real and profound interest—is the question of the introduction of the elective element into the Government of India. * * * I am not at all disposed to ask them at once to produce large and imposing results. What I wish is that their first step shall be of a nature to be genuine and whatever amount of scope they give to the elective principle shall be real. The honourable gentleman did not indicate where such materials for the elective element were to be found. Undoubtedly, Sir, as far as my own prepossessions go, I should look presumptively with the greatest amount of expectation and hope to the municipal bodies and the local authorities in India, in which the elective element is already included."

What happened was exactly what might have been anticipated by anyone familiar with British political development. Her Majesty's Government in transmitting the Act of 1892 explained that the intentions of Parliament were that—

"Where corporations have been established with definite powers upon a recognized administrative basis, or where associations have been formed upon a substantial community of legitimate interests, professional, commercial, or territorial, the Governor General and the local Governors might find convenience and advantage in consulting from time to time such bodies, and in entertaining at their discretion an expression of their views and recommendations with regard to the selection of members in whose qualifications they might be disposed to confide."

Technically, the function of the nominating bodies was to be that of recommendation only: but the political sense of the Government of India told them that it was impracticable either to insist on selection from a panel of names proferred, or to reject individual nominations at discretion. They also declined, otherwise than by laying down certain general qualifications, to fetter the discretion of the recommending bodies. In conclusion with local Government they

drew up regulations which Lord Kimberley accepted. These provided for an official majority, but restricted it so far as was thought possible; and they also left the majority of the non-official seats to be filled by recommendation. The term "election" was sedulously eschewed; but inasmuch as the nominations by recommending bodies came to be accepted as a matter of course the fact of election to an appreciable proportion of the non-official seats was firmly established.

The Act of 1892 also followed the recommendations of Lord Dufferin's Committee so far as to give the councils the right of asking questions, and of discussing, though not of voting upon, the budget. To this limited extent we find it recognized—contrary to the decision of 1861—that the functions of councils were thenceforward to be more than merely legislative, or merely advisory.

Working of provincial regulations.

70. Rather more than five years later, Lord George Hamilton ordered the working of these regulations to be reviewed with the object of seeing how far they had secured the representation of all important classes. Inquiry showed both in Madras and Bombay that the district boards and municipalities, which constituted the nominating authorities for rural areas, tended to nominate lawyers far too exclusively, but neither Government was disposed to press for any change. In Bengal, however, one seat was transferred from the rural municipalities to the large landowners who had not hitherto been given a right of nomination. The general idea was that the machinery for representation at that time corresponded to the needs of the country; and so for another ten years the elective element in the provincial councils consisted of at the utmost eight members, returned by a few large cities, by groups of municipalities and district boards, by large zamindars, by chambers of commerce, and by universities.

Elections for the Indian Legislative Council.

71. The same principle of election disguised as recommendation was also adopted in 1892 for the legislative council of the Governor General. But the reformers of that period felt bound to work within the statutory maximum limit of sixteen additional members, which made it impossible, if an official majority was to be kept, to admit more than ten non-officials. Four of these seats they allotted to recommendation by the non-official members of the four provincial councils, and one to the Calcutta Chamber of Commerce. Abandoning as hopeless the idea of securing the representation of the vast residuary area and population of the country by any *quasi*-elective machinery, they fell back for the filling of the five remaining non-official seats upon the process of nomination by the Governor General.

Reasons for further advance.

72. The impulses which led in 1906 to the initiation of the reforms associated with the names of Lord Morley and Lord Minto were partly internal, partly external. Fourteen years' experience of the reforms of 1892 had been on the whole favourable.

Criticism had mostly been temperate though not always well-informed. Useful information had been often, and valuable suggestions not infrequently, received; and the association of the leaders of the non-official public in the management of affairs even in a restricted and rudimentary form had afforded an outlet for natural aspirations and some slight degree of education in the art of government. Non-official speakers in Council and speakers and organs of the Indian National Congress were claiming that the time had come for further advance. Internally indeed the period was one of marked unrest, to which the Russo-Japanese war of 1904-05, the Universities Act of 1904, and the partition of Bengal had contributed. In November 1905 Lord Minto had replaced Lord Curzon as Viceroy, and in December Lord Morley became Secretary of State for India. In these circumstances Lord Minto, of his own initiative but with the full cognizance and approval of the Secretary of State, followed Lord Dufferin's example in appointing a committee of Council composed of Sir Arundel Arundel, Sir Denzil Ibbetson, Mr. Erle Richards, and Mr. Baker, to consider among other matters the increase of the representative element in the Indian and provincial legislative councils. His reasons for so doing may be best stated in his own words:—

"Indian affairs and the methods of Indian administration have never attracted more public attention in India and at Home than at the present moment. The reasons for their doing so are not far to seek. The growth of education which British rule has done so much to encourage is bearing fruit. Important classes of the population are learning to realize their own position, to estimate for themselves their own intellectual capacities, and to compare their claims for an equality of citizenship with those of a ruling race, whilst the directing influences of political life at Home are simultaneously in full accord with the advance of political thought in India.

"To what extent the people of India as a whole are as yet capable of serving in all branches of administration, to what extent they are individually entitled to a share in the political representation of the country, to what extent it may be possible to weld together the traditional sympathies and antipathies of many different races and different creeds, and to what extent the great hereditary rulers of Native States should assist to direct Imperial policy, are problems which the experience of future years can alone gradually solve.

"But we, the Government of India, cannot shut our eyes to present conditions. The political atmosphere is full of change; questions are before us which we cannot afford to ignore, and which we must attempt to answer; and to me it would appear all-important that the initiative should emanate from us, that the Government of India should not be put in the position of appearing to have its hands forced by agitation in this country or by pressure from Home—that we should be the first to recognize surrounding conditions and to place before His Majesty's Government the opinions which personal experience and a close touch with the every-day life of India entitle us to hold."

Statement of the problem in 1907.

73. The problem which Lord Minto's Government set themselves to solve was how to fuse in one single government the two elements which they discerned in the origins of British power in India. They hoped to blend the principle of autocracy derived from Moghul emperors and Hindu kings with the principle of constitutionalism derived from the British Crown and Parliament;

to create a constitutional autocracy, which differing *toto coelo* from Asiatic despotisms, should bind itself to govern by rule, should call to its councils representatives of all interests which were capable of being represented and should merely reserve to itself in the form of a narrow majority predominant and absolute power. They hoped to create a constitution about which conservative opinion would crystallize and offer substantial opposition to any further change. They anticipated that the aristocratic element in society and the moderate men, for whom there was then no place in Indian politics, would range themselves on the side of the Government, and oppose any further shifting of the balance of power and any attempt to democratize Indian institutions.

Dissatisfaction with the solution.

74. These sanguine expectations were short-lived. In nine years the Morley-Minto reforms have spent their utility. They are no longer acceptable to Indian opinion; and in the light of experience official opinion also views them with a critical eye. We judge that this is due in varying degrees to the political development brought about by the reforms themselves, to the precipitation of democratic feeling caused by the war, to some inherent features of the scheme of reforms itself, and to Lord Morley's assertion that these reforms were not meant to lead to Parliamentary government. Indeed Lord Morley whole-heartedly accepted and even emphasized the contention of Lord Minto's Government that they were not aiming at responsible government. He wrote:—

"Your Excellency's disclaimer for your government of being 'advocates of representative government for India in the Western sense of the term,' is not any more than was to be expected. Some of the most powerful advocates of the representative system in Europe have learned and taught from Indian experiences of their own that, in Your Excellency's words, 'it could never be akin to the instincts of the many races comprising the population of the Indian Empire.' One reason among many is suggested by the statement in the portion of your despatch dealing with local Governments, that 'Indian gentlemen of position ordinarily refuse to offer themselves as candidates to a wide electorate, partly because they dislike canvassing, and partly by reason of their reluctance to risk the indignity of being defeated by a rival candidate of inferior social status.' While repudiating the intention or desire to attempt the transplantation of any European form of representative government to Indian soil, what is sought by Your Excellency in Council is to improve existing machinery, or to find new, for 'recognising the natural aspirations of educated men to share in the government of their country.' I need not say that in this design you have the cordial concurrence of His Majesty's Government.

"One main standard and test for all who have a share in guiding Indian policy, whether at Whitehall or Calcutta, is the effect of whatever new proposal may at any time be made upon the strength and steadiness of the paramount power. In Indian government there is no grace worth having in what is praised as a concession, and no particular virtue in satisfying an aspiration, unless your measures at the same time fortify the basis of authority on which peace and order and all the elements of the public good in India depend. In the whole spirit of Your Excellency's despatch I read the conviction that every one of the proposals advanced in it is calculated by enlisting fresh support in common opinion on the one hand, and on the other by bringing government into closer touch with that opinion, and all the currents of need and feeling pervading it, to give new confidence and a wider range of knowledge, ideas, and sympathies, to the holders of executive power."

75. We need not review the correspondence in which the proposals were developed. Our purpose will be served by setting forth the salient features of the scheme with a brief explanation of the considerations which shaped them. Its authors agreed that in the immense diversity of interests and opinions in India representation by classes and interests was the only practicable means of embodying the elective principle in the constitution of the councils. For certain limited interests, such as the presidency corporations, universities, chambers of commerce, or the planting community, it was an easy task to frame limited electorates. Difficulties began when it was a question of providing for widespread interests or communities, such as the landholding or professional classes, or for important minorities, such as the Muhammadans in many provinces or the Sikhs in the Punjab. The Muhammadans indeed pressed for and obtained from Lord Minto a promise that they should elect their own members in separate Muhammadan constituencies. It is probable that the far-reaching consequences of this decision and the difficulties which it would create at a later stage were not fully foreseen: we shall have occasion to discuss them later. Similarly to the large landowning interests a special electorate was conceded based on a high franchise. The residuary constituencies for the provincial councils—which constitute the only means of representation of the people at large—were constructed out of municipalities and district boards voting in groups.

Salient features of the 1909 reforms. System of representation.

76. Lord Minto's Government were at first disposed to maintain a bare official majority in the provincial councils, but to summon ordinarily only such a number of official members as would be necessary for the transaction of business. But in Bombay it had already been found possible to do without an official majority, and in the year 1906 the local council consisted of 10 officials and 14 non-officials though to three of the latter seats officials might at any time be appointed. It was decided therefore to face the risks of abandoning the official majority in provincial councils; to rely partly on the use of the veto, partly on the statutory restrictions attaching to provincial legislation, to prevent the carrying of undesirable laws; and to trust to the concurrent powers of legislation possessed by the Governor General's legislative council for the enactment of necessary laws which the provincial council refused. The provincial legislatures were enlarged up to a maximum limit of 50 additional members in the larger provinces and 30 in the smaller; and the composition was generally so arranged as to give a combination of officials and nominated non-officials a small majority over the elected members except in Bengal where there was a clear elected majority.

Abandonment of official majority in the provincial councils.

The Indian Legislative Council was also enlarged. According to the present regulations the number of additional members is ordinarily 60. Not more than 28 may be officials. The Governor

General also nominates three non-officials to represent certain specified communities and has at his disposal two other seats to be filled by nomination. In this case also it was found necessary to rely largely on the representation of interests rather than territories. The 27 elected seats are partly shared by certain special constituencies, such as the landowners in seven provinces, the Muhammadans in five provinces, Muhammadan landowners in one province (at alternate elections only), and two chambers of commerce, while the residue of open seats is filled by election by the non-official members of the nine provincial legislative councils. We may explain that our figures take account of the further changes in the regulations necessitated by the repartition of Bengal and the subsequent constitution of a legislative council for the Central Provinces. On the Governor General's Legislative Council a small official majority was thus retained. Lord Morley laid it down that the Governor General's Council "in its legislative as well as its executive character should continue to be so constituted as to ensure its constant and uninterrupted power to fulfil the constitutional obligations that it owes and must always owe to His Majesty's Government and to the Imperial Parliament."

Legal recognition of the elective principle.

77. The regulations in which these provisions were embodied made an important new departure in expressly recognizing the principle of election which the regulations of 1893 had practically but not legally admitted. Up to 1909, as we have seen, there was no obligation to accept the nomination made by the recommending bodies, but in practice the nomination was never disregarded. We have, however, seen it stated that the existence of power to reject a nomination did lead in a few cases to the withdrawal of some undesirable candidatures. The legal recognition of the elective principle in 1909 necessarily involved the imposition of legal disqualifications for election: and an oath or affirmation of allegiance to the Crown was at the same time imposed.

Right to move resolutions.

78. No less important than these changes in the composition of the councils were the changes in their functions. It is quite true that so far as legislative duties are concerned the somewhat old-fashioned provisions of the Act of 1861 continued mainly to regulate their powers: but the deliberative sphere of the councils was enlarged in a striking manner. As we have said, for thirty years between 1861 and 1892 the councils had no other function than that of legislation. The Act of 1892 gave members power to discuss the budget but not move resolutions about it or to divide the council. It became the practice accordingly to allot annually one or two days a year to the discussion of a budget already settled by the executive government. Lord Morley's Act empowered the councils to discuss the budget at length before it was finally settled, to propose resolutions on it, and to divide upon them. Not only on the budget, however, but on all matters of general public importance resolutions might henceforth be proposed and divisions

taken. The resolutions were to be expressed and to operate as recommendations to the executive government. On certain questions, among which may be mentioned matters affecting Native States, no resolutions could be moved. Any resolution might be disallowed by the head of the Government acting as President of the Council without his giving any reason other than that in his opinion the resolution could not be moved consistently with the public interest. At the same time the right to ask questions of the Government was enlarged by allowing the member who asked the original question to put a supplementary one.

Nature of the advance made.

79. In the next chapter we shall have something to say about the working of these reforms in practice. But here we may pause for a moment to point out how the Morley-Minto changes carried constitutional development a step further. They admitted the need for increased representation, while reiterating the impossibility of basing it generally on a direct or general franchise. They admitted the desirability of generally securing non-official approval to the government legislation, though they trusted in an emergency to the support of nominated members, to the division of interests between different classes of elected members, and in the last resort to over-riding legislation in the Indian Legislative Council where an official majority was retained. Frankly abandoning the old conception of the councils as a mere legislative committee of the Government, they did much to make them serve the purpose of an inquest into the doings of Government, by conceding the very important rights of discussing administrative matters and of cross-examining Government on its replies to questions. Lord Morley's disclaimer:—" If it could be said that this chapter of reforms led directly or indirectly to the establishment of a parliamentary system in India, I, for one, would have nothing at all to do with it "—is no doubt explicable when we remember his stout insistence on the sovereignty of the British Parliament, and his acceptance of the decided advice of Lord Minto's Government, backed by the experience of every Indian administrator of eminence, that anything beyond very limited constituencies and indirect franchises was unthinkable in India. He took the constitutional view that no relaxation of the control exercised by the British electorate was possible until an Indian electorate, which was not then in sight, had arisen to take the burden from its shoulders. None the less we are constrained to say that the features of his reforms which we have described do constitute a decided step forward on a road leading at no distant period to a stage at which the question of responsible government was bound to present itself.

A legislative convention.

80. One more point calls for notice in this review of the growth of legislative bodies in India. We pointed out in paragraph 63 that the central legislature retained the right of legislating for the whole of India. But there has been growing up during recent years a convention by which the Government of India do not ordinarily legislate for any

province in matters which are within the competence of the provincial legislative council. The institution of such councils in the smaller provinces has confirmed this tendency, which by this time has acquired such strength that it is safe to say that very special reasons indeed must now be forthcoming before the Indian legislature would concern itself with any matter with which a provincial legislature was fully competent to deal.

Conclusions.

81. But the reforms of 1909 afforded no answer, and could afford no answer, to Indian political problems. Narrow franchises and indirect elections failed to encourage in members a sense of responsibility to the people generally, and made it impossible, except in special constituencies, for those who had votes to use them with perception and effect. Moreover, the responsibility for the administration remained undivided: with the result that while Governments found themselves far more exposed to questions and criticism than hitherto, questions and criticism were uninformed by a real sense of responsibility, such as comes from the prospect of having to assume office in turn. The conception of a responsible executive, wholly or partially amenable to the elected councils, was not admitted. Power remained with the Government and the councils were left with no functions but criticism. It followed that there was no reason to loose the bonds of official authority, which subjected local Governments to the Government of India and the latter to the Secretary of State and Parliament. Such a situation, even if it had not been aggravated by external causes, might easily give rise to difficulties: the plan afforded no room for further advance along the same lines. Only one more thing remained to do, and that was to make the legislative and administrative acts of an irremovable executive entirely amenable to the elected councils; on which must have ensued the deadlock and disruption to which we refer elsewhere. The Morley-Minto reforms in our view are the final outcome of the old conception which made the Government of India a benevolent despotism (tempered by a remote and only occasionally vigilant democracy), which might as it saw fit for purposes of enlightenment consult the wishes of its subjects. To recur to Sir Bartle Frere's figure, the Government is still a monarch in durbar; but his councillors are uneasy, and not wholly content with his personal rule; and the administration in consequence has become slow and timid in operation. Parliamentary usages have been initiated and adopted in the councils up to the point where they cause the maximum of friction, but short of that at which by having a real sanction behind them they begin to do good. We have at present in India neither the best of the old system, nor the best of the new. Responsibility is the savour of popular government, and that savour the present councils wholly lack. We are agreed that our first object must be to invest them with it. They must have real work to do: and they must have real people to call them to account for their doing of it.

Chapter IV.—The Morley-Minto Councils.

Introductory.

82. We have already explained in some detail the changes effected in the legislative councils in Lord Minto's time. We now propose to examine the reformed councils in working and to attempt to gauge the extent to which they have fulfilled expectations. It was claimed for them that they would associate the people in a real and effective manner " in the work not only of occasional legislation, but of actual every-day administration ". Let us see how they have done so. In the first place we shall consider the extent to which the councils have been in any true sense representative of the people, and thereafter we shall see in how far the people's representatives have been able to influence legislation and administration in the councils.

Defects of the existing electoral system. Restricted nature of the franchise.

83. No one can deny that as an embodiment of the representative principle the present electoral system has great defects. The chief of these are the very restricted nature of the present franchise, and except in the constituencies composed of the members of some special class or community, the lack of any real connexion between the primary voter and the member who sits in the councils. In the Indian Legislative Council there are eighteen members who are elected to speak for sectional interests, and nine who may be said to represent, however remotely, the views of the people as a whole. So far as can be stated the largest constituency which returns a member directly to the Indian Legislative Council does not exceed 650 persons; and most of the constituencies are decidedly smaller. The constituencies which return the nine representatives of the people at large are composed of the non-official members of the various provincial legislative councils, and the average number of voters in these electoral bodies is only twenty-two, while in one case the actual number is nine. In the case of the provincial councils themselves there is the same division of members between those who are directly elected to represent special interests and those who are elected indirectly as the representatives of the general population. For the latter the members of municipal and local boards either act as electors or else choose electoral delegates to make the election; but in neither case do the constituencies exceed a few hundred persons. If we ignore the small class constituencies, then local bodies, which in a limited sense may be taken as standing for the people at large, enjoy the best representation and return 7·4 members for every 1,000 electors. Then come the landholders with 3·6 representatives for every 1,000 electors, and then the Muhammadans with 1·3 members per 1,000 electors. But whereas election is direct in the two last cases, it is indirect and, in cases where delegates are chosen, doubly indirect in the case of local bodies:

because the members of the municipal and local boards are themselves elected by constituencies which cast their votes purely with reference to personal or local considerations and without any thought of contributing to determine the composition of the legislative councils. In such circumstances we are bound to hold that in the one case the non-official members of the provincial councils, and in the other case the members of the municipal and local boards are for practical purposes primary voters so far as their representatives in the Indian and provincial legislative councils are concerned. There is absolutely no connexion between the supposed primary voter and the man who sits as his representative on the legislative council, and the vote of the supposed primary voter has no effect upon the proceedings of the legislative council. In such circumstances there can be no responsibility upon, and no political education for, the people who nominally exercise a vote. The work of calling into existence an electorate capable of bearing the weight of responsible government is still to be done; and as we shall see, the difficulties are great and it is likely to be a work of time.

Large proportion of lawyers returned.

84. A minor but still noteworthy result of the present electoral system is the large percentage of members of the legal profession who succeed at elections. If we look at the constitution of the Indian Legislative Council after the elections of 1909, 1912, and 1916 we see that the percentage of lawyers among all the non-official elected members was 37, 26, and 33, respectively; and if we exclude members returned by constituencies of the landholding and commercial classes, and also the special Muhammadan representatives, regarding whom no figures have been compiled, and look only to the members returned by the non-official members of provincial legislative councils, we find that the legal profession gained between 40 per cent and 45 per cent of the seats in 1909 and 1912 and in the present council hold 54 per cent. This increase has been gained chiefly at the expense of the landholders, who have also lost ground to the representatives of commercial interests. Turning to the provincial councils we find much the same state of affairs. In most of these councils also there are seats specially reserved for landholders and commercial men which are naturally filled by members of these classes. This reduces the legal element in the councils as a whole. Even so, the proportion of lawyers among the elected members of all the councils together (excluding Burma) was 38 in 1909, 46 in 1912, and 48 in 1916. But if we take those constituencies only which are intended to represent the views of the people at large, as distinct from any special interests, that is to say, the constituencies formed of members of local and district boards, we find that in 1916 out of 70 such constituencies no less than 49, or 70 per cent, returned lawyers as their members. The conclusion to be drawn from these figures is that in the only constituencies in which members of the general population are represented the chances are at least two to one that a lawyer will be returned. Now the predominance of the lawyer in politics is a feature of parliamentary institutions else-

where: and it is obvious that the art of parliamentary government which is so largely concerned with the making of laws and so largely conducted through the medium of persuasive speech must in any case offer the lawyer a definite advantage. In India these conditions may be accentuated by the fact that the choice of occupations open to the educated classes has hitherto been narrowly limited. The class that is both leisured and educated is a small one. At the same time so great a political predominance of men of one calling is clearly not in the interests of the general community, and it is therefore out of no antagonism to the members of an honourable profession or failure to appreciate their value in the councils that we suggest that in framing our new constituencies an important object to be borne in mind is to ensure that men of other classes and occupations find a sufficient number of seats in council. It may be that this can be attained by prescribing certain definite qualifications for rural seats.

The official *bloc*. Its working.

85. On the other hand the arrangements for presenting and enforcing the Government's view are no less open to criticism. The old idea that the legislative councils are only the Governments in their legislative aspect still appears in the language of sections 63 and 73 of the Government of India Act, and as we shall see has quite recently been enforced by Secretaries of State. This is no doubt a main reason why the official *bloc* has been maintained with peculiar rigidity in the councils. Non-official members have long since enjoyed the right of introducing legislation; but the view that law-making was still primarily the prerogative of the executive Government which is amenable to Parliament has so far endured that it has been the exception, and not the rule, for Government to leave its official members free to speak and vote as they choose even on private members' business. On Government business their mandate has been stricter. The proceedings in council have been controlled by Government; generally speaking, Government officials are not expected to ask questions or move resolutions, or (in some councils) to intervene in debate or even to rise to points of order without Government's approval, and, thougt there is of late a tendency to treat more matters as open questions, when a division is taken the official members nearly always vote by order in support of Government.

Its effect on officials.

86. The effect upon the proceedings in council can be readily imagined. The Government mandate has been compared to the rigidity of party discipline in the House of Commons, but, as we think, to little purpose. The reason which induces a member to acquiesce in the whip's bidding is the perception that, as the defeat of the Government ordinarily means a change of ministry, it is his duty to sacrifice his personal opinions on a particular point for the greater principles for which his party stands. Moreover, there comes a time when individual judgment asserts itself and Governments fall because some of their supporters vote against them. The essence of the system is political responsibility. But the official

obligation to vote with Government in an Indian legislative council is continuing, and is not made palatable by any necessity of securing an irremovable Government from demise; and as Mr. Gladstone saw many years ago the conflict between conscience and discipline may become acute.

Effect on Indian members.

87. Upon the Indian members of the legislative councils the effect is frankly irritating. It prejudices in their view the position of the official members who form the *bloc.* Indian members may share in a debate in which the majority of speakers, and in their eyes the weight of argument, are arrayed against the Government. The Government having only one view to present often contents itself with doing so through a single mouthpiece. But when a decision is taken the silent official phalanx effectively carries the Government measure or votes down the private member's resolution. The Indian member's views are therefore rarely placed on record as the opinion of the council, because the council's decision is in a majority of cases the decision of the Government. We may add that most Governments dislike the use of the official *bloc*, and that most of the men who compose it dislike the position in which they find themselves. The fact that Indian officials in the councils are rare, and that the few English non-official members as a rule vote with the Government, helps not merely to exacerbate the cleavage, but to give it an unamiable character. It tends to stimulate the discussion of racial questions and to give an edge to the debate. But above all the official solidarity naturally stifles any differences that exist between Indian elected members and drives them to a league against Government, into which the nominated Indian members also tend to enter.

Effect on council proceedings.

88. These factors contribute to the unreality of the proceedings. Because the number of elected members is small, and the issue is often known beforehand, the debates lack life unless feelings are aroused or interests are directly affected; and because the Government has to a great extent controlled the proceedings the councils have not felt the need of developing any corporate opinion which would have the effect of raising the standard of individual performance. Nevertheless, the quality of speeches on both sides is improving; there is less reading than formerly of manuscripts prepared without reference to the debate; less repetition of points already dealt with and disposed of. Experience of the occasions when Government has withdrawn from the discussion and left the natural cleavages of opinion to declare themselves shows how much greater vitality may be infused into the council work in future if the official *bloc* be withdrawn.

Position of official members.

89. To illustrate the way in which official command over the councils was maintained we may notice two incidents in 1911 and 1912 which brought out clearly the Janus-like nature of the Morley-Minto con-

stitution. It will be remembered that official members were first introduced into the Indian Legislative Council when that body was the only legislature in India, with the intention of ensuring that provincial interests were represented in it. Even when all the provinces had councils of their own this idea survived ; and after the Indian budget was thrown open to discussion by Lord Dufferin's reforms we find that it was still quite a common practice for provincial members in the central legislative council to express dissatisfaction with the terms granted to their provinces in the financial settlements. This usage continued after the Morley-Minto changes ; but the Government of India no longer listened with equal tolerance to criticisms of their financial decisions, and members of the executive Government responded with a fervour which surprised and staggered the provincial critics. Two provincial Governments protested against this sudden change of attitude ; but Lord Hardinge's Government ruled that the reforms of 1909 had entirely changed the position. Their official majority, they said, had been reduced to its lowest practicable limits ; and provincial official members were now present not to speak for their provinces, but to support the Government of India in the budget debate just as in legislation. So long as the official element was wholly predominant in the Indian Legislative Council no objection was felt to criticism by the official provincial members ; but with the admission of a large elected contingent it was necessary to close the ranks, to exclude the freedom of expression which had hitherto been conceded, and to discard the fiction that the Indian legislative chamber was the medium of discussion between the central and the subordinate Governments. Now it is reasonable to conclude that in pleading for better financial terms for their presidencies the Madras and Bombay official representatives were expressing the views not merely of the presidential Governments, but of the elected members of the provincial councils ; and we have the dilemma that under the Morley-Minto scheme official indulgence of the popular view may easily find itself in conflict with official discipline.

Position of provincial Governments.

90. Precisely the same clash of principle occurred in another form a year later. The Bombay Government had been unsuccessful in their endeavours to persuade the Government of India to sanction certain changes affecting the educational staff. With the merits of their proposals we are not concerned. But the proposals were popular locally, and were again put forward for adoption in a resolution moved in the Bombay Legislative Council by an elected member. The Bombay Government thereupon accepted the resolution which was carried unanimously ; and once more they put forward their proposals to the Government of India on the ground that they had the council's entire support. The Government of India and the Secretary of State held that these tactics were out of order. Lord Crewe's words are worth quoting :—

"The Government of India have no representation on a provincial council, and the defence of their policy and orders in matters of provincial administration,

as well as that of any that may have been laid down by the Secretary of State, is wholly entrusted in these assemblies to the local Government. Therefore for reasons similar to those for which Your Excellency's Government in the Imperial Council are careful to preserve your solidarity with the Secretary of State it is incumbent on a provincial Government in the conduct of the business of its Legislative Council to avoid disclosing a difference of opinion in an administrative matter between the Imperial and the provincial Governments, and doing anything to foster the impression that there may be opposition between the constitutional responsibilities of those Governments, when no such opposition either does, or can, exist. There is for India one system of administration, and one alone; and it is only by bearing steadily in mind this fundamental principle that the solidarity of the administration can be kept unimpaired and those disruptive tendencies controlled which must always form the chief risk of decentralization of authority. It was, therefore, in my view the duty of the local Government in dealing with the resolution to uphold with all their authority the decision of the Government of India."

Once more we find the principles of official subordination and official unity of view successfully opposed to the principle of meeting the popular wishes. The moral is a plain one. Deference to non-official wishes in India is not always consistent with the official discipline which is necessary to the supremacy of the Secretary of State and Parliament. So long as the latter remain unaltered there can be no reality about the powers of the councils; and if we are to give the provincial councils power, Parliament and the Secretary of State and the Government of India also must realize this.

Work of the councils.

91. Turning now to the work actually done in the council chamber we must distinguish the work of the Indian Legislative Council from that of the provincial councils. Not only is the business coming before the former of greater importance, but the character of the assembly is different. It is less homogeneous than a provincial council; its members generally have less immediate knowledge of many of the subjects with which it is concerned; and discussion is relatively more concerned with principles than details. Moreover, unlike the provincial councils, the Indian Legislative Council has an official majority.

The Indian Legislative Council. Influence of non-official members on legislation.

92. A casual observer turning over the proceedings of the Indian Legislative Council from 1910 onwards might be struck by the council's apparent lack of interest in what he would probably regard as its most important function, namely, legislation. In the eight years 1910-17 the council passed 131 laws, of which no fewer than 77, or 59 per cent. were passed without any discussion whatsoever. But examination of the proceedings shows that a very large proportion of these were financial or petty amending Acts, while many others, especially since the outbreak of war in 1914, were measures of a more or less technical nature which the council rightly felt that it was not competent to discuss. Moreover, the policy of the Government of India has been to avoid contentious legislation during the war, and some measures which might arouse controversy, such as the Bill to amend the Criminal Procedure Code, have for this reason been deliberately

postponed. We must also remember that the central council contains representatives of the more backward, as well as of the more advanced, provinces, for which reason the general level of ability and power of expression among the non-official members is perhaps higher in the councils of the more advanced provinces. Nor indeed can it be said that the provincial Governments have always been at pains to send up their best official representatives to the central council. They have sometimes naturally preferred to retain their services for the provincial councils. But perhaps the most important reason why so many Bills have met with small opposition lies in the Government's policy of avoiding opposition as far as possible. With this end in view every effort is made before a Bill is introduced to ascertain as far as possible non-official opinion. It is probably true that the council exercises a greater influence on the shape of Bills before they are introduced than when they are actually under discussion. The tendency is for the departments to prune a Bill beforehand of all features expected to arouse controversy, and thereafter to oppose all material amendments. It may thus happen that amendments proposed in council are less frequently adopted than suggestions submitted before the introduction of Bills. The constructive work of legislation is in fact still largely done by correspondence; and this can hardly be otherwise so long as the official majority is maintained. At the same time there is no reason for supposing that the non-official members are unable to influence the shape of Bills after introduction. On the contrary we find that in spite of the official majority they have in many cases been able to make their weight felt. Much of the most solid and useful work in the sphere of legislation is done in the seclusion of the committee room, and not in the publicity of the council chamber. The presence of the official *bloc* may to some extent give an air of unreality to criticism in the council hall, but to the committee rooms its influence does not extend. The non-official member who is really interested in a particular measure, or is anxious to have a Bill altered, generally arranges to be put on the select committee on the Bill, or to approach the official member in charge and to discuss the question with him in private. The reported debates thus afford no measure of the real influence of non-official members. Since 1909 only eight Bills can be said to have encountered really serious opposition. We have already seen that 77 provoked no discussion at all; of the remaining 56 the majority received little public attention but when the Indian members did take up a decided attitude they were often able to carry their point. We need only cite the Indian Court-fees (Amendment) Bill (1910), the Indian Factories Bill (1911), the Indian Patents and Designs Bill (1911), the Criminal Tribes Bill (1911), the Life Assurance Companies Bill (1912), the Indian Companies Bill (1912), and the Indian (Bogus Degrees) Medical Bill (1916) as measures which were modified to a greater or less degree, and generally improved, at the instance of non-official members. The White Phosphorus Matches Bill was a very minor piece of legislation but its career illustrates the Government's readiness to defer to public opinion. On its first intro-

duction the Bill was severely attacked on the ground that it would cause hardship to poor consumers and the Government withdrew it for further inquiry. When it was reintroduced the following year the opposition had died down and the Bill was passed. The Patna University Bill, however, was probably the most striking instance in which a measure underwent change in consequence of non-official criticism. It appears that whenever the Government has met with anything approaching solid opposition on the part of the Indian members it has, except on matters touching the peace and security of the country, generally preferred to give way.

Private members' legislation.

93. Only five private Bills have been passed by the Imperial Legislative Council since 1910. The most important of these were the Musalman Waqf Validating Bill (1913), the passage of which was facilitated by the Government, and the Hindu and Musalman Disposition of Property Bill (1916). At least four other private Bills were introduced :— Mr. Gokhale's Elementary Education Bill, Mr. Basu's Special Marriage Bill, and Messrs. Madge and Dadabhoy's Bills regarding prostitution. Of these the first two were rejected. The Government declined to support the former for financial and technical reasons, and the latter because of the practical difficulties which it was feared that its passage into law would raise. But a factor in deciding the Government's attitude was the knowledge that both Bills encountered not a little non-official opposition. The other two Bills were not pressed as the Government itself undertook to proceed with legislation on the subject: but in the event the Government's own measure for the protection of girl minors was postponed during the war because it was evident that non-official opinion was not agreed upon the proposals embodied in it. As must perhaps be expected in the face of an official majority the tale of private legislation is not imposing, but it shows a certain tendency to increase.

Influences of the council on administration.

94. We pass to another aspect of the council's work, namely, the influence which it exercises on the work of administration by means of questions and resolutions. The fact that nearly twice as many questions were asked in 1917 as in 1911 shows that serious value is attached to the right of interrogation. Supplementary questions can at present be asked only by the author of the original question ; they have not been numerous ; but there is a desire to extend the right of putting them to any member of the council. At the same time it cannot be said that the right of interrogation has been abused, though there has been a tendency to ask for information which could be ascertained from published reports, to require elaborate statistical information which is of no practical value, and also to ask questions which would appropriately be put in local councils. The right to move resolutions on matters of general importance and on the financial statement was conceded in 1909. The view taken at the time that this concession was perhaps the most

important of all the changes has been justified by experience. In all 168 resolutions were moved in the council up till the end of the year 1917; of these 24 were accepted by Government, 68 were withdrawn, and 76 were rejected either with or without a division. These figures by themselves do not give a true impression of the real effect of the resolutions. In some cases the mover withdraws a resolution because he is convinced by the Government reply that his proposal is unsound; but it more often happens that a resolution is withdrawn because, though the Government may for some technical or financial reasons not be able to accept the resolution in the form in which, or at the time when, it is moved, the spokesmen of the Government have indicated that its attitude towards the mover's object is favourable. Again many resolutions have been rejected either in pursuance of some settled policy, or else because the Government felt it unwise to accept them without inquiry; but the discussions have led to re-examination of the questions in issue, and at times to an ultimate change of policy, as happened indeed in the case of compulsory education and the treatment of persons dealt with under the Defence of India Act, which were both questions on which opinion was alive and active. A rough classification of the resolutions shows that some 73 can be described as fructuous. In not a few instances substantial results were obtained. Among the measures the decisions on which have been influenced by council resolutions were the abolition of the system of indentured labour in certain colonies, the establishment of an executive council in the United Provinces, the establishment of a high court in the Punjab, the appointment of a committee to inquire into, and report on, jail administration, and the appointment of the Public Services and the Industrial Commissions. These measures of major importance could be supplemented by a much longer list of less important matters of administration in regard to which non-official resolutions have definitely influenced the action of the Government. But the point needs no further elaboration. Every observer of the recent course of the administration is aware how perceptibly it is affected by the attitude of the non-official members of council on all public questions. Moveover, even when the Government is unable to accept a resolution, a debate may be of value as affording a convenient outlet for non-official opinions and as giving the Government an opportunity of explaining its own policy.

Attitude of the non-official members.

95. It is difficult to speak with any certainty about tendencies which have developed in so short a period as that with which we are dealing. We desire, however, to pay a tribute to the sense of responsibility which has animated the members of the Indian Legislative Council in dealing with Government legislation. In the passage of very controversial measures, such as the Press Act, the Government received a large amount of solid support from non-officials; similarly it received assistance when measures of real importance, such for example, as the Defence of India Act and the recent grant of one hundred millions to the Imperial Treasury were under discussion. Again, good

examples of the practical nature of the work done were afforded by the debates on the Factories Act or the Companies Act. When we consider the debates on resolutions we must remember that, while the official majority renders it impossible for non-official members to carry any measure or resolution against the Government, the relatively ineffectual character of resolutions makes it hardly to be expected that members would show the same sense of responsibility in their speeches and votes as in legislation. Further, many resolutions recently have been concerned with racial subjects, and the debates have been tinged with the racial considerations to which we have drawn attention elsewhere. These causes have contributed to induce a habit among the non-official members, nominated and elected, of acting together; and during the years which have elapsed since the inception of the reforms the tendency to joint action has grown perceptibly stronger. Inasmuch as the nominated members are appointed to represent particular interests, they were at first expected to act independently, but in many matters they have acted with the elected members, and on racial questions in particular it was natural that they should not divorce themselves from the general Indian view. It is, however, we think in legislation, rather than in resolutions, that the real working of the council must be sought; and from the short experience from which we have to judge all that can be said is that, for the reasons we have mentioned, the tendency is growing for the non-officials (excluding the Europeans, who usually, if not always, vote with the Government) to act together.

The provincial legislative councils.

96. We should have liked to make a similar analysis of the working of all the elder provincial councils; but neither the time nor the information readily available to us admit of this. Certain differences between the Indian and provincial councils are readily apparent. Both the elected and the official members in the provincial councils are in closer touch with the subject matter of discussion; many of the elected members have activities which bring them in contact with the official members outside of council and thereby closer relations are established; and because distances are smaller the meetings of councils are more evenly distributed throughout the year, and of shorter duration than in the Indian Legislative Council, with the result that the pressure upon the few official members on whom the chief business falls is probably felt less heavily than in the Government of India. The main point of difference, however, is, of course, the fact that in all the provincial councils there is a non-official majority and in Bengal a small elected majority. But the fact that absentees are more numerous among the non-official, than among the official, members tends to impair the effectiveness of the non-official majority. It cannot be said, however, that the introduction of Government Bills has been generally hindered by the prospect of opposition although there have, we understand, been occasions when a local Government has been deterred from attempting legislation which it desired. As in the Government of India the policy

has generally been to anticipate opposition to particular provisions by modifying a draft Bill in the light of objections raised in the opinions received. Moreover, the policy of avoiding controversial discussion during the war has checked legislative activity, and somewhat discounts the conclusions that are to be drawn. It is evident that select committees have done useful work in improving the actual form and shape of legislative measures. In comparatively few instances they have done much more. We may select the United Provinces Municipalities Bill as a striking example of the great influence which the elected element has had in shaping legislation. The Bill was changed out of all recognition by the select committee, and in the council itself twenty-seven non-official amendments were accepted by, and one was carried against, the Government. One of the most vital provisions of the Bill, a clause fixing the proportion of Muhammadan representation in municipal boards, was the result of a conference of non-official members, and was incorporated in the Bill by an amendment moved by a non-official member. Nowhere has there been much private members' legislation. In the Bombay Council only one Bill out of six has passed, but we understand that most of the others were reasonable attempts to deal with important problems. In the United Provinces non-official members carried Bills against adulteration and opium gambling. A private Bill to stop juvenile smoking is before a select committee in the Punjab and a private Bill dealing with compulsory education in Bihar and Orissa. These same two topics are at present the subject of two private Bills in Bengal.

97. The right of interpellation has naturally been used more freely than in the Indian Legislative Council. In the United Provinces Council the number of questions rose from 218 in 1910 to 458 in 1916, and in Bengal the increase has also been remarkable; in Madras we understand that the number of questions has been even greater. One local Government estimates that 20 per cent of the questions asked in council relate to information already published and a general tendency to ask for unfruitful statistics is reported. On the other hand, questions have often served the purpose of resolutions in eliciting a statement of the Government's policy; and it is, we believe, generally recognized by moderate opinion that the Government endeavours to answer reasonable inquiries with reasonable fulness.

Use of the right of interrogation.

98. There is abundant evidence that the right to move resolutions is valued; and the number of resolutions withdrawn when the Government has indicated its benevolent intentions towards, though not its immediate acceptance of, the proposals, suggests that the power has been used with moderation. There is a marked difference, however, between provinces as to the number of resolutions moved; and in some councils the chief activity is confined to a small group of members. It is clear that the provincial Governments do attach weight to resolutions and

Use of resolutions.

exert themselves if possible to defeat those which they are not prepared to accept. Not many resolutions have been carried against the Government, and when a resolution is carried, the Government, if it decides that it cannot give effect to the wishes of the council, usually publishes its reasons for so deciding. But the effect of resolutions is by no means confined to those which are carried against, or accepted by, the Government, for it often happens that discussion of a subject leads to positive results. An analysis of the results attained by the resolutions moved in one provincial council in the years 1910-17 showed that they secured, or helped to secure:—

(1) an opium gambling Act, (2) a new cattle farm, (3) a council library, (4) the removal of a criminal tribe settlement, (5) the defence of poor prisoners charged with capital offences, (6) the regulation of the Burma meat trade, (7) concession to the matriculation examination of partial equality with the school-leaving examination, (8) the promotion of deputy superintendents of police to superintendents of police, (9) a promise in connexion with the abolition of revenue divisions, (10) Government assistance in connexion with a road to a shrine, (11) publication of certain college reports, and (12) an officiating appointment for a member of the provincial educational service.

The tendency of all non-official members to act together is more strongly marked in some provincial councils than in others. In the Punjab, where the nominated members are relatively in a stronger position than in other councils, and in Bombay, there is more independence of action than elsewhere. In other provinces the non-official members tend to act and vote together.

Mr. Gokhale's expectations from the reforms.

99. Speaking at the Indian National Congress of 1908 Mr. Gokhale justly described the Morley-Minto changes as modifying the bureaucratic character of the Government and offering the elected representatives responsible association with the administration. He looked to local self-government to provide the real school of political education, and anticipated that Indians would now have full control and management of local affairs. That expectation has not yet been generally fulfilled, though in some provinces advance has certainly been made. Attention on both sides has been directed more to the provincial councils than to local bodies and the importance of securing what Mr. Gokhale called the base of the edifice has been lost sight of. This seems to us a very strong reason for placing in Indian hands the responsibility for the development of local bodies which still remains to be carried out. Secondly, Mr. Gokhale referred to the every-day problems of administration, legislation, and finance as constituting the centre of the position; and in respect of this he believed that the reforms amounted almost to a revolution. In place of silent administrative decisions there would in future be open discussion. Over finance for the control of the Government of India would be largely substituted the control of discussion and criticism in the councils. (It must be explained that the Decentralization Commission had not then made its report, and the anticipations of a full measure of financial devolution had not yet

been disappointed.) The admission of Indians to the executive councils, moreover, meant, he hoped, that racial considerations would recede into the background, and that the Indian view of questions would be effectively presented in the highest councils. As regards legislation the non-official majority had gained a preventive voice in the provinces; and if the position was otherwise in the central council he thought that the Government of India would henceforth loom less largely in provincial matters, and that the elected members would have all the opportunity that they needed of influencing the course of provincial business. These concessions, he said, were large and generous; and they imposed two responsibilities. There must be co-operation with Government, instead of merely criticism; and the new powers must be used with moderation and restraint and for the promotion of the interests of the whole people. He named mass education, sanitation, peasant indebtedness, and technical education as large outstanding questions which it was beyond the power of an official government to handle without the co-operation of the people. Finally, he appealed to Indians not to be content with dreaming; let them prove that they could bear such responsibilities as they were being given before asking for any more.

Reasons for their non-fulfilment.

100. In the light of these anticipations it is not hard to understand how the Morley-Minto constitution ceased in the brief space of ten years' time to satisfy the political hunger of India. The new institutions began with good auspices and on both sides there was a desire to work them in a conciliatory fashion. But some of the antecedent conditions of success were lacking. There was no general advance in local bodies; no real setting free of provincial finance; and in spite of some progress no widespread admission of Indians in greater numbers into the public service. Because the relaxation of parliamentary control had not been contemplated the Government of India could not relax their control over local Governments. The sphere in which the councils could affect the Government's action, both in respect of finance and administration, was therefore closely circumscribed. Again and again a local Government could only meet a resolution by saying that the matter was really out of its hands. It could not find the money because of the provincial settlements; it was not administratively free to act because the Government of India were seized of the question; it could therefore only lay the views of the council before the Government of India. As regards legislation also the continuance of the idea of official subordination led to much of the real work being done behind the scenes. The councils were really more effective than they knew; but their triumphs were not won in broad daylight in the dramatic manner which political ardour desired. This was one reason why more interest was often shown in resolutions than in legislation. The carrying of a resolution against Government, apart from the opportunity of recording an opinion which might some day bear fruit, came to be regarded as a great moral victory; and it is evident that topics that are likely to combine all the Indian elements in the council offered the best opportunity. Because the cen-

tralization of control limited the effectiveness of the councils the non-official members were driven to think more of display than they might have otherwise done ; and the sense of unreality on both sides deepened. All this time the national consciousness, and the desire for political power, were growing rapidly in the minds of educated Indians ; and the councils with their limited opportunities proved to be an insufficient safety-valve. While therefore inside the councils there are signs of hardening opposition and the weariness which comes of sterile efforts, outside the councils the tide of feeling was rising more quickly. For a short time after their inception the Morley-Minto reforms threatened to diminish the importance of the Indian National Congress and the Muslim League. It seemed as if the councils where elected members took a share in the business of government must be a more effective instrument for political purposes than mere self-constituted gatherings. But with the disillusionment about the reformed councils, the popular conventions, where speakers were free to attack the Government and give vent to their own aspirations untrammelled by rules of business or the prospect of a reply, naturally regained their ascendancy ; and the line taken by prominent speakers in them has been to belittle the utility of the councils, if not to denounce them as a cynical and calculated sham. We cannot now say to what extent improvement might have been effected by gradual changes in the rules of business by relaxing official discipline, by permitting freer discussion, and by a greater readiness to meet the non-official point of view. However this be, events have proved too strong. The councils have done much better work than might appear to some of their critics. But they have ceased to satisfy Indian opinion, and their continuance can only lead to a further cleavage between the Indian members and the government and a further cultivation of criticism unchecked by responsibility.

The present position.

101. It seems to us that the inherent weakness of the position created by the Morley-Minto changes is excellently brought out in the following comment :—

"We must make up our minds either to rule ourselves or to let the people rule : there is no half-way house, except of course on the highway of deliberate transition. At present we are doing neither. We are trying to govern by concession and each successive concession has the air of being wrung from us. We keep public business going by bargaining and negotiation—not, however, the healthy bargaining of the market-place, but a steady yielding to assaults which always leave some bitterness behind on both sides. This is in no sense the fault of individuals ; it follows inevitably from the influences at work. Up to Lord Curzon's viceroyalty, there was a sturdy determination to do what was right for India, whether India altogether liked it or not. The reforms which followed his régime brought in a power of challenge and obstruction—influence without responsibility ; and rather than fight we have often to give way. We are shedding the rôle of benevolent despotism, and the people—especially those who are most friendly to us—cannot understand what rôle we mean to assume in its place. We are accordingly losing their confidence and with it some of our power for good. If we returned to sheer despotism, we should carry many of the people with us, and should secure an ordered calm But that being impossible, we must definitely show that we are moving from the Eastern to the Western ideal of rule. And, secondly, we must maintain

the full weight and order of government while the move is going on. Otherwise we cannot look for either internal peace or the co-operation of the people, or indeed for anything else except growing weakness with the fatal consequences that weakness involves in an Eastern country."

In these words we catch an echo of Warren Hastings' pregnant saying :—" In no part of the world is the principle of supporting a rising interest and of depressing a falling one more prevalent than in India ". Transition is indeed a difficult business and full of risks that we should be short-sighted to ignore. The old structure does not admit of development. All that could be done with it would be to increase the size of the non-official part of the councils—a step that would deprive those responsible for the government of the country of any power of obtaining necessary legislation. We must, therefore, create a new structure. That means time for the fresh material to form ; real work for it to do so that it may harden ; and retention of genuine powers of guidance, supervision, and, if need be, of intervention, until such time as the task is complete.

Chapter V.—The Existing Structure.

Relations between the Indian and the provincial Governments.

102. In an earlier chapter we have described how the Government of India developed out of a trading corporation and thereby inherited some of the centralized characteristics of its Moghul predecessor. We saw also that while the whole system of government in the country was operated by a lever which Parliament committed to the hands of the Secretary of State, the system itself centred in the Governor General in Council, to whom a large measure both of initiative and of decision was left and who exercised in theory complete control over his subordinate Governments. At the same time it will be remembered that the Government of India can act only within the limitations imposed on it by the India Office; and that the existence of such limitations is implied in what we have to say. We shall now examine rather more fully the relations between the central and provincial Governments, and also the means which the latter have of carrying their will into effect. We shall show how, and why, control is exercised; and we shall then be in a position to see that, however cautiously we approach the problem, not a little demolition of the existing fabric must precede the beginnings of responsible government.

Their general character.

103. The bond between the Governor General in Council and a provincial Government resembles in theory, but in practice differs from that between the Secretary of State and the Government of India. It is true that the obligation to obey orders is expressed almost as straitly in section 33 of the Statute of 1915 as in section 45; but the construction placed upon the law in the latter case is wider, if for no other reason, because the Government of India are nearer to the cause of action, and are more likely to be moved to intervene, and to have more immediate knowledge of it than the Secretary of State. Legally speaking, their control over provincial Governments rests not merely on their executive, but also on their legislative powers; but in practice we may sub-divide the former, and so discern three strands—legislative, financial, and administrative—in the bond of subordination: and of these three far the most important for day-to-day purposes is the financial strand.

Financial devolution.

104. The Government of India's control over revenues and expenditure is derived from the Acts of 1853 and 1858, which treated the revenues of India as one and applied them to the purposes of the Government of India as a whole. It is true that this provision is not so strictly construed as absolutely to prevent the appropriation of particular sources of income to specific objects, all-Indian or provincial; but it has certainly had the effect of denying to provincial Governments any inherent legal right to the

revenues which they raised. It followed that all revenues originally went into the coffers of the central Government and that all but the most trifling expenditure had to be defrayed under its orders. From that primitive condition has been, by gradual stages, evolved the present system of "divided heads"—an arrangement which the onlooker is inclined to regard as a needless complication, but which, like many Indian institutions, has its basis in conditions peculiar to the country. It will be remembered that from the necessities of their position the Government of India are responsible for the defence of the whole country; for certain great commercial departments, such as the railways and the post office; for the administration of certain areas for strategic reasons, such as the Frontier Province, or for fortuitous reasons, such as Coorg; for diplomatic business and relations with Native States; for the service of the debt; for all audit and accounting; and for the upkeep of the India Office in England and a large pension list. They have also assumed the liability for insuring the provinces against the one great catastrophe which from time to time threatens their financial stability in the shape of a failure of the rains and consequent famine. For these purposes the central Government takes the receipts from the sources of revenue which it directly controls and also certain other revenue, such as salt, customs, and opium, of which the locale of origin is no guide to its true incidence. But these resources by no means suffice for its needs, and the deficit must be somehow made good. The system of divided heads is an attempt to do this; but in order to make it intelligible a brief retrospect is necessary.

Financial system up to 1861

105. The commercial principles which underlay the Company's rule sufficiently explain the original decision that the central Government should keep full control of all revenues in their own hands, and though a complete reorganization of the finance of the country followed soon after the transfer of India to the Crown no innovation in this respect was for some time attempted. Provincial Governments had in other respects extensive powers, but they could incur no actual expenditure without the formal orders of the Government of India. Sir Richard Strachey (who was the real author of the changes that followed) wrote at the time "the distribution of the public income degenerated into something like a scramble, in which the most violent had the advantage, with very little attention to reason. As local economy brought no local advantage, the stimulus to avoid waste was reduced to a minimum, and as no local growth of the income led to local means of improvement, the interest in developing the public revenues was also brought down to the lowest level."

Evolution of the settlement system.

106. Lord Mayo's Government has the credit of the first attempt to make the provincial Governments responsible for the management of their own local finances. Each local Government was given a fixed grant for the upkeep of definite services, such as police,

jails, education, and the medical services, with power, subject to certain conditions, to allocate it as seemed best, and also to provide for additional expenditure by the exercise of economy and if necessary by raising local taxes. All the residuary revenues the Government of India retained for its own needs. Experience of this initial step not only justified a further advance. but also pointed the direction which it should take. What was clearly wanted was to give local Governments an effective inducement to develop the revenues collected in their territories, to encourage economy, and to ensure that all parts of the administration received a due share of the growing revenues to meet growing needs. It was recognized also that less interference by the Government of India in the details of provincial administration was desirable. The final effect of the important changes made in Lord Lytton's time was to delegate to local Governments the control of the expenditure upon all the ordinary provincial services, and in place of the fixed grants previously given to hand over to them the whole, or part. of specified heads of revenue, wherewith to meet such charges. Here for the first time we meet with a classification of revenue heads into Indian, provincial, and divided. The heads of revenue made over in whole. or in part, to provincial Governments were those which were thought to offer most prospect of development under careful provincial management—forests, excise, license-tax (now income-tax), stamps, registration, provincial rates, law and justice, public works, and education. But the difficulty of exactly adjusting means to needs remained ; and as the revenue from the transferred heads was not ordinarily sufficient for provincial requirements, it was supplemented by a percentage of the important head of land revenue, which otherwise remained an all-India receipt. Settlements on these lines were made with the provinces for five years in 1882, and were revised in 1887, 1892 and 1897, not without controversy and some provincial discontent. At these revisions no changes of principle were introduced ; but the growing needs of the provinces were met by treating land revenue as one of the sources of income divided between the central and the provincial Governments, and further by supplementing the provincial revenues by means of fixed cash assignments adjusted under the same head.

Settlements made *quasi*-permanent.

107. In the year 1904 we meet an important new departure—the introduction of the system of *quasi*-permanent settlements. Thenceforward the revenues assigned to a province were definitely fixed, and were not subject to alteration by the central Government save in case of extreme and general necessity, or unless experience proved that the assignment made was disproportionate to normal provincial needs. The object was "to give the local Governments a more independent position and a more substantial and enduring interest in the management of their resources than had previously been possible." Under the old system it every now and then happened that the supreme Government were forced by financial stress to resume balances standing to the credit of the provinces when the settlement expired. This killed

any motive for economy, as provincial Governments knew that if they economized in one direction in order to accumulate money for other needs their savings were imperilled, while their reduced standard of expenditure would certainly be taken as the basis for the next settlement. Improved financial conditions and a more liberal outlook combined to remove these difficulties. Local Governments could count on continuity of financial policy, and were able to reap the benefit of their own economies without being hurried into ill-considered proposals in order to raise their apparent standard of expenditure. But the Government of India were also gainers. Their relations with the provincial Governments were smoothed by the cessation of the standing quinquennial controversies, and they were also left in a better position to calculate their own resources.

Famine expenditure. Settlements made permanent.

108. A little later on the provinces gained still further. Hitherto, the liability for famine had lain upon them, and the central Government stepped in only when their resources were exhausted. There was devised instead a new famine insurance scheme, by which the Government of India placed to the credit of each province exposed to famine a fixed amount, on which it should draw in case of famine without trenching on its normal resources. When this fund was exhausted further expenditure would be shared equally by the central and provincial Governments, and in the last resort the Government of India would give the province further assistance from their own revenues. In 1917 this arrangement was simplified by making famine relief expenditure a divided head, the outlay being borne by the central and provincial Governments in the proportion of three to one, which coincided approximately with the actual incidence under the previous system.

The Decentralization Commission went into the whole question of the financial relations of the central and the provincial Governments and proposed no radical change; but Lord Hardinge's Government decided to take the final step in the development of the system, and in 1912 they made the settlements permanent. They further improved the position by reducing the fixed assignments and increasing the provincial share of growing revenues; and they conferred a minor, but still important, benefit on the provinces by curtailing their intervention in the preparation of provincial budgets.

Defects of the system. Provincial expenditure.

109. We are not concerned with the arguments, some of admitted cogency, that have been used to defend this intricate arrangement. They may be found in the report of the Decentralization Commission. But what we are concerned to do is to point out how seriously it operates as an obstacle to provincial enfranchisement. Because provincial settlements have been based not on provincial revenues, but on provincial needs; a central control over provincial

expenditure is not merely justifiable but inevitable. The Government of India could not allow a province to go bankrupt. But, if the Government of India were responsible for provincial solvency, they must be in a position to control provincial expenditure; indeed, in view of their own competing needs, they could hardly avoid feeling a direct interest in keeping down provincial charges. Again as regard revenues, so long as the Government of India take a share in the proceeds they have a strong motive for interfering in details of administration. Their interest in land revenue, for example, inevitably leads them to a close supervision over revenue settlements; and the control tends to become tighter in cases where expansion and development, as in the case of irrigation, depend on capital outlay. The existing settlements are an undoubted advance upon the earlier centralized system, but they constitute no more than a half-way stage. If the popular principle is to have fair play at all in provincial Governments, it is imperative that some means be found of securing to the provinces entirely separate revenue resources.

Provincial taxation.

110. In the second place, the Government of India completely control all taxation imposed in British India, apart from the local taxes which are raised by local bodies. Taxation can, of course, be only levied by law, and section 79 (3) (*a*) of the Government of India Act forbids a local legislature, without the previous sanction of the Governor General, to consider "any law affecting the public debt of India or the customs duties or any other tax or duty for the time being in force and imposed by the authority of the Governor General in Council for the general purposes of the government of India". This is the natural corollary of the statutory hypothecation of all Indian revenues to all-India needs. It is true that the law would not inhibit a provincial legislature from exploiting for provincial purposes any new source of taxation which it had the ingenuity to discover; but even in that case the central Government has its remedy at hand. It has been its practice to control all legislation in provincial councils by means of "instructions" to local Governments, which presumably depend for their authority upon the powers conferred by section 45 of the Act, and which require all projects of laws to be approved by the Secretary of State. A proposal for provincial taxation, like any other project for provincial legislation, would therefore be referred for sanction to the Government of India and the Secretary of State, and would, before being translated into action, have to secure the assent of the Finance Department, which would consider closely if it trespassed on the central Government's resources of taxation. Here again it is not our purpose to examine the validity of the arguments for maintaining the practice existing. If many buckets are dipping into one well, and drought cuts short the supply of water, obviously the chief proprietor of the well must take it upon himself to regulate the drawings. All that we are concerned to do is to point out how this power of controlling the levy of fresh sources of income contributes to the close subordination in which provincial Governments are at present held;

and to observe that, if possible, some means of enlarging their powers must be found.

111. A third restriction upon the powers of provincial Governments has also been accepted hitherto as almost an axiom of the Indian financial system. The power of borrowing has never been conceded to the provinces. Port trusts and municipalities may raise loans within defined limits, but because the revenues of India are legally one and indivisible and are liable for all debts incurred for the purposes of the Government of India, provincial Governments have possessed no separate resources on the security of which they could borrow. Sterling loans are always raised in England by the Secretary of State under the authority of Act of Parliament, and rupee loans in India by the Government of India with the Secretary of State's sanction. We recognize that there were strong practical reasons for this arrangement also. The total market was limited; the Home market is sensitive. It was considered advisable to control the total borrowings of India by one agency, if rates were not to be forced up and the market dislocated, and credit possibly impaired by indiscreet ventures. Accordingly it has been the practice to reserve entry to the public loan market entirely for the central Government and for the latter to lend money to the provincial Governments when circumstances required. The Decentralization Commission went into the question in 1908 and declined to recommend any change. It seems to us, however, that if provincial Governments are to enjoy such real measure of independence as will enable them to pursue their own development policy, they must be given some powers, however limited, of taking loans. To this matter also we shall return in a later chapter.

Provincial borrowing.

112. A powerful instrument by means of which the Government of India exercises control over expenditure in the provinces is the series of the codes of instructions, such as the Civil Service Regulations, the Civil Account Code, the Public Works Code, and the like. In part these deal with the mechanism of finance, such as the maintenance of a uniform system of audit and accounting, the custody of public money, remittances, economy, and such matters: but they also impose definite restraints upon the powers of provincial Governments to create new appointments or to raise emoluments. Such restrictions arise largely out of the need for preventing a ruinous competition in generosity between provinces, or for providing for officers who are liable to transfer from one province to another. These reasons have led to a mass of regulations affecting such matters as recruitment, promotions, leave, foreign service, and pensions, upon which the codes really constitute a digest of the case-law laid down from time to time by the Government of India. Another praiseworthy object which, however, the growing complexity of the codes has tended to defeat was to make the right principles of public business intelligible to a scattered army of subordinate officials through-

Codes of instructions.

out the country and so to avoid incessant applications for guidance to higher authority.

Their justification.

113. The bad name which attaches to the codes is partly explained by their size and obscurity, which probably helps to occasion the very increase of business that it was hoped to avoid, partly by the conviction that they are construed in a narrow and meticulous fashion with the avowed object of keeping charges down. But we cannot doubt that the intention of the codes was sound, and that they have played a valuable part in checking extravagance and undesirable divergencies. The paramount justification for restrictions on the spending powers of local Governments and subordinate authorities, which the latter find irksome, was the need of ensuring that, in a poor country, official Governments were fully sensible of the duty of economy, and of making good the lack of effective popular criticism by close control from above. Indeed such control has not obviated much criticism in the legislative councils of the cost of official establishments. Regulations of this nature were therefore appropriate to the state of things for which they were devised; but clearly they are also an impediment to be dealt with before the road to responsible government in the provinces lies open.

Legislative control. Statutory restrictions on the powers of provincial councils

114. Now let us see how the Government of India, which has power in its legislative council to make laws for the whole of British India, exercises its control over legislation in the provinces. We have explained how nine provinces—Madras, Bombay, Bengal, the United Provinces, the Punjab, Burma, Bihar and Orissa, the Central Provinces and Assam—have legislative councils, and we have watched these bodies in operation. The Statute declares that the local legislature of each province has power, subject to certain specified restrictions, to make laws "for the peace and good government of the province". At first sight the restrictions are not stringent. It is reasonable that a local council should not be allowed to effect any Act of Parliament, nor as a general rule to repeal or alter without previous sanction any Act of the Governor General's Legislative Council or indeed of any legislature but itself. (There are reservations to be made, but they are relatively unimportant.) These general limitations might easily be so redrafted as to make superfluous some of the further inhibitions, surviving from earlier laws, which are embodied in the Act of 1915—such as those relating to the public debt of India, or customs or other taxes imposed by the central Government, or coin or currency notes, or posts and telegraphs, or the Penal Code, or the army and navy—because any effective provincial legislation on these matters would necessarily affect legislation by the Government of India. In addition, a provincial council may not, without the previous sanction of the Governor General, consider any law affecting the religion or religious rites and usages of any class of British subjects in India, or regulating patents or copyright, or affecting the relations of the Government with foreign Princes or States.

115. Evidently there is left an extensive field in which, so far as the substantive provisions of the Statute go, the legislative competence of the provincial councils is legally unfettered. Actually, however, the discretion of the local councils is curtailed in two ways. In the first place owing to the fact that in their present existence all the local councils are younger, and most of them much younger, institutions than the legislative council of the Governor General, a great part of the field that would otherwise be open to them is covered by Acts of the elder body, which has always retained a concurrent power of legislation for the country at large. The labours of the Law Commissioners initiated the practice of codifying the law on important subjects for the whole of British India, which has been since pursued to the great benefit of the country. On examining the Indian statute book we find that, apart from military and marine and political questions, or finance, or communications (for all of which they are necessarily the proper legislating authority), the Government of India have passed laws in their legislative council for all kinds of matters which might have been dealt with by provincial legislatures, but are doubtless far better handled on uniform lines. The Penal and Procedure Codes and the Evidence Act are the great monuments of this policy, but it has been pursued in many spheres of business. Under the head of crime we have laws for prisons, jails, reformatory schools, police, and whipping. Where the personal law affecting different communities has been codified, in such matters as marriage, minors, and succession, attempts have been made to make it uniform and to prevent provincial variations, to the great benefit of the people. In civil law we have Acts regulating contracts, trusts, specific relief, transfer of property, easements, and arbitration. Business has been regulated by laws for patents, trade-marks, weights and measures, securities, insurance, companies, insolvency, and usury. Laws for forests, mines, factories, boilers, electricity, and explosives have smoothed the course of industry; and labour questions have been dealt with in laws controlling compulsory labour disputes, breaches of contract, emigration, and apprentices. The course of public business in certain respects and the management of the public estate have been standardized. Essential matters affecting the public health—such as poisons, leprosy, lunacy, vaccination, and epidemics—have also been regulated by a uniform code of law. Finally in a wide miscellany of matters, such, for example, as religious endowments, charitable societies, plays and kinematographs, motor vehicles, ancient monuments, and treasure trove, India has been given a uniform law, which works well because conditions are everywhere sufficiently similar. This is a record of which its authors may be proud.

Restrictions resulting from previous occupation of the legislative field.

116. In the next place the power of the Secretary of State and Parliament to control all Indian legislation (which we saw finally asserted by Mr. Gladstone's Government) has been made operative, as we have said above, by means of executive directions, which have

Restrictions imposed by executive directions.

made it incumbent on provincial Governments to submit for the previous sanction of the Government of India and the Secretary of State all their projects for legislation before introduction. It is quite true that these directions do not apply to private members' Bills; but inasmuch as a Bill can only be introduced with the leave of the council, and the local Government has in most cases been in a position, if it chose to do so, to oppose such a motion successfully, the Government of India, by directions to the local Government, have been in a position to control all private provincial legislation almost as effectively as the local Governments' Bills. Moreover, if a private member's Bill affects the revenues the previous sanction of the Governor is necessary to its introduction; and in a recent case the Secretary of State has ruled that such sanction should not be given until he has had an opportunity of considering the proposals. This system will strike the reader who has federal models in mind as an instance of excessive centralization. It is due to the fact that the provincial legislative councils are even now in theory only an enlargement of the executive Government for the purpose of law making, and that the legislative power has not been recognized as residing in the provincial councils as distinct from the provincial Governments, over whom official control is justified and necessary. Nor has the system been without advantage in the past, as it has enabled the central Government to curb unprofitable divagations and incidentally to maintain standards of legislative drafting which are acknowledged to be good. None the less, it is apparent that an effective measure of devolution is required before provincial councils can possibly acquire any genuine independence in legislation.

Administrative control. The need for uniformity.

117. We have now to consider how the Government of India wield the administrative control over provincial business with which section 45 of the Statute invests them. In part, as we have seen, this rests on financial considerations. In part, it is due to Parliament or the Indian legislature having reserved certain matters, such as appointments to high office or statutory rules on important subjects, for the sanction of the central Government. But in the main it is too general and extensive to admit of easy analysis. All that we can do is to suggest some general reasons which explain what has occurred. It is easy to see that in many respects India is one single and undivided country in which much work must be done on uniform lines. The main services which execute the orders of provincial Governments have been recruited from England on terms guaranteed by the Secretary of State, with the result that many questions affecting them cannot be determined by any provincial Government. Again, the development of trade and industry and science throughout India has favoured the tendency at headquarters to formulate and pursue a uniform policy. Business and industry might be seriously hampered if (even with one law for all India) the provinces were left to administer such matters as statistics, patents, copyright, insurance, income-tax, explosives, or mining on different lines. Particularly in the more scientific spheres—such as bacteriology, or agricul-

tural and veterinary science—advance has tended to concentration, because the expert services were much too small to be organized on a provincial basis, and also because the experience and resources of any one institution would not be fully used unless they were placed at the disposal of the whole country.

Initiation of new policies.

118. Moreover, in the past the Government of India have regarded themselves as distinctly charged with the duty of framing policy and inspiring reforms for the whole of India. It is the penalty of absorption in the heavy task of daily administration to concentrate unduly on detail. There is a tendency at times for the wheels to become clogged and to sink into the ruts of routine. At such times the Government of India, standing apart from immediate details and often actuated by the strong personality of their central figure, have set themselves to survey the whole field of some branch of the administration and to enunciate and enforce fresh principles. The method pursued has often been to assemble a Commission of inquiry, such as those which Lord Curzon appointed to deal with police and universities. The Commission reported, and then the Government of India consulted local Governments and issued a series of decisions. Their orders were often accompanied by handsome grants from their own surpluses, which were strictly earmarked for the purpose of pushing on some particular feature of the new policy. The disadvantages of an arrangement which so appreciably curtailed the provincial Government's freedom of expenditure will be apparent. Not seldom the Commission's labours resulted in the appointment of new advising or inspecting officers at headquarters, whose task it was to see that the new energy suddenly infused into the system was well-maintained and well-directed to the chosen ends. We do not doubt that these outbursts of creative activity have been beneficial, and have contributed to the admitted efficiency of the machine. We hope to find a substitute for them in future in the stimulus afforded by popular criticism. But official inspirations from above have as a side consequence certainly increased the disposition to intervene in provincial details. The Government of India have not been content to set the ball rolling; they have insisted on watching its pace and course. It is fair to add that in recent years we find a perceptible tendency in the opposite direction. The Decentralization Commission inculcated the principle of devolution and its spirit was embodied in the orders which followed on it. The resolutions in which Lord Hardinge's Government dealt with the large questions of education and local self-government certainly cannot be accused of Prussian rigidity and precision.

Effect of responsibility to Parliament.

119. Among the reasons which have tended to the tightening of control has been the consciousness that while local Governments were largely immune from popular criticism in India both they and the Government of India themselves were accountable to Parliament. The problems presented by criminal activities of a political complexion will illustrate our meaning well. The Government of India were constrained

to control local Governments closely in such matters, if for no other reason. because of their responsibility to Parliament. But their control has been by no means actuated solely by this consideration. They have felt the serious responsibility which lay upon them as the supreme authority in the country for its good government, and for the maintenance of high standards of public and personal conduct. In the absence of popular control their general attitude was right. With the introduction of such control its justification is diminished.

The Indian constitution not federal.

120. We have dealt at some length with the strong tie which binds the provinces to the central government. It seemed to us necessary to analyse it, because it constitutes the chief obstacle across our path, and also affords a plain warning to those who are disposed to be misled by facile analogies from federal constitutions. Granted the announcement of August 20, we cannot at the present time envisage its complete fulfilment in any form other than that of a congeries of self-governing Indian provinces associated for certain purposes under a responsible government of India; with possibly what are now the Native States of India finally embodied in the same whole, in some relation which we will not now attempt to define. For such an organization the English language has no word but 'federal'. But we are bound to point out that whatever may be the case with the Native States of the future into the relation of provincial and central governments the truly federal element does not, and cannot, enter. There is no element of pact. The government of the country is at present one; and from this point of view the local Governments are literally the "agents" of the Government of India. Great powers have been delegated to them because no single administration could support the Atlantean load. But the process before us now is not one of federalizing. Setting aside the obstacles presented by the supremacy of Parliament, the last chance of making a federation of British India was in 1774, when Bombay and Madras had rights to surrender. The provinces have now no innate powers of their own, and therefore have nothing to surrender in a *foedus*. Our task is not like that of the Fathers of the Union in the United States and Canada. We have to demolish the existing structure, at least in part, before we can build the new. Our business is one of devolution, of drawing lines of demarcation, of cutting long-standing ties. The Government of India must give, and the provinces must receive; for only so can the growing organism of self-government draw air into its lungs and live. It requires no great effort of the imagination to draw a future map of India which shall present the external semblance of a great new confederation within the Empire. But we must sedulously beware the ready application of federal arguments or federal examples to a task which is the very reverse of that which confronted Alexander Hamilton and Sir John Macdonald.

Provincial organization.

121. It is time to consider the internal organization of a province, because of this also our scheme must take account. Our description must be understood

as an attempt to sketch typical arrangements without including special features of particular localities.

The administrative machine.

122. In every province but Bombay there exists at headquarters, for the purpose of supervising the revenue administration, a Board of Revenue, or its equivalent, a Financial Commissioner. In their administrative capacity these constitute the chief revenue authority of the province, and relieve the provincial Government of much detailed work which would otherwise come to it; while in their judicial capacity they form an appellate court for the increasing volume of revenue, and often of rent suits. But for other purposes than revenue the provincial Government deals chiefly with its commissioners and collectors. The easiest way of understanding the organization of a province is to think of it as composed of districts, which in all provinces except Madras, are combined, in groups of usually from four to six, into divisions, under a commissioner. The average size of a district is 4,430 square miles, or three-fourths the size of Yorkshire. Many are much bigger. Mymensingh district holds more human souls than Switzerland. Vizagapatam district, both in area and population, exceeds Denmark. In the United Provinces, where districts are small and the population dense, each collector is on the average in charge of an area as large as Norfolk and of a population as large as that of New Zealand. The commissioner of the Tirhut division looks after far more people than the Government of Canada.

The district.

123. The district, which is a collector's charge, is the unit of administration, but it is cut up into sub-divisions under assistant or deputy collectors, and these again into revenue collecting areas of smaller size. The provincial Government's general authority thus descends through the divisional commissioner in a direct chain to the district officer. The district officer has a dual capacity; as collector he is head of the revenue organization, and as magistrate he exercises general supervision over the inferior courts and, in particular, directs the police work. In areas where there is no permanent revenue settlement he can at any time be in touch, through his revenue subordinates, with every inch of his territory. This organization in the first place serves its peculiar purpose of collecting the revenue and of keeping the peace. But, because it is so close-knit, so well-established, and so thoroughly understood by the people, it simultaneously discharges easily and efficiently an immense number of other duties. It deals with the registration, alteration, and partition of holdings; the settlement of disputes; the management of indebted estates; loans to agriculturists; and, above all, famine relief. Because it controls revenue, which depends on agriculture, the supreme interest of the people, it naturally serves also as the general administration staff. The revenue officials and, to a much more limited extent, the police convey the orders of Government to the people in a hundred ways. Taken together, these two agencies act as the general representatives of Government over the country to its remotest borders, and, apart from them.

there is no other. Several other specialized services exist, with staffs of their own, such as the establishments for irrigation, roads and buildings, agriculture, industries, factories, and co-operative credit. These are controlled not by the district officer but by their own departmental heads; they may be regarded as a different set of strings connecting the Government with the people. But in varying degrees the district officer influences the policy in all these matters, and he is always there in the background to lend his support, or, if need be, to mediate between a specialized service and the people.

Local self-government.

124. But, we shall be asked, what room is left for such all-pervading official activity, since all towns of reasonable size have been made into municipalities, and since rural affairs are committed to district or local boards? We have seen already that the hopes entertained of these bodies have not in the past been fulfilled. The avowed policy of directing the growth of local self-government from without rather than from within has, on the whole, been sacrificed to the need for results: and with the best intentions the presence of an official element on the boards has been prolonged beyond the point at which it would merely have afforded very necessary help up to a point at which it has impeded the growth of initiative and responsibility. Municipal practice varies between provinces; some have gone further in the direction of elected majorities, others in the direction of elected chairmen: Bengal has gone far in both directions. But over much of the country urban self-government in the smaller towns still depends largely on official support and guidance. The elected members of the boards appear to have difficulty in facing the disfavour aroused by a raising of the rates, or a purification of the electoral roll, or drastic sanitary improvements, unless they feel that the district officer is behind them; and, even when he is not a member of the board, he is generally armed with powers of inspection and advice. In rural areas, where people are less educated and less practised in affairs, and where the interests involved are diffused over large areas instead of being concentrated under their eyes every day, the boards are constituted on a less popular basis. Usually from three-quarters to one-half the members of the district boards are elected, and the electorate represents anything from ten to two per thousand of the rural population. The Decentralization Commission advised that the district officer should continue to preside over the district board, because they did not wish to cut him off from district interests and were anxious to retain his administrative experience; and up till now the Central Provinces are the only provinces in which marked headway has been made in the direction of choosing the chairman by election. Generally speaking, therefore, we may say that while within town areas elected town councils control the administration of their roads, schools, drainage, conservancy, lighting, and the like, the district officer is still at hand as a stimulus and a mentor; and in the more backward district boards he still plays an important part, because as chairman he directs the executive agency of the board, Rural education, dispensaries, sanitation, country roads,

bridges, water-supply, drainage, tree-planting, veterinary work, pounds, fairs, ferries, sarais, and the like, are all matters which, to a great extent, he still administers, not primarily as a servant of Government, but on behalf of, indeed in some provinces, as the formally elected president of, a popular body; and the Commissioner above him exercises considerable supervision over the boards' proceedings. It will, of course be understood that we are speaking of *mufassil* practice. The great presidency corporations, whose beginnings date from the 17th century, are in a class by themselves. Mainly elective in character, they work largely through an official chairman or executive officer, and are not subject to close supervision from outside.

Strength and weakness of the official system.

125. The system which we have described was originally due to imitation of the *quasi*-military organization of the Moghul Empire. The councils and local bodies are innovations, due to the totally different conception of administration which springs from English political thought. In large centres of population municipal institutions are a reality, and they form an oasis of popular control in the midst of an official system. In smaller towns official influence is still actually, though not technically, strong. The boards to whom rural affairs are committed, though they often enjoy elected majorities, are, in practical working, probably still weaker in relation to the official system than the Morley-Minto changes left the councils in relation to Government. The organization is still well-suited in many ways to the needs of a backward people and is well understood by them. Among all the suggestions made to us it has never been suggested that the system has broken down. It has the great advantage that in every district, and portion of a district—that is to say, in many parts of the country, within not more than twelve or fifteen miles of every single inhabitant—there is a direct representative of Government, to whom complaints on every conceivable subject can be addressed, and through whom the Government can act. Its weaknesses are, we conceive, equally apparent. It is humanly impossible for the district officer to control the whole business of government and to look after his army of subordinates as closely as is required. His utmost vigilance and energy do not suffice to prevent petty corruption and oppression from disfiguring official business. The people are slow to complain and prefer to suffer rather than to have the trouble of resisting. This mischief is being slowly remedied with the improvement of the subordinate services. It could be remedied further at great expense by decreasing district areas and increasing the supervising staff. But there can be no general improvement except through the awakening of public opinion which we believe that our reforms will stimulate. Strong as it is, the official system is too weak to perfect the enormous task before it without the co-operation of the people.

The place of the Indian Civil Service.

126. This executive organization which we have described has been well likened to a nerve system of official posts, actuated up till now chiefly by impulses of its own, but affected by the popular ideas

which impinge on it from three sources—the British Parliament, the legislative councils, and the local boards. Parliament can, of course, make its commands effective at any moment, but rarely chooses to do so. The effect of the councils and local bodies in India has been to influence, but not yet to control, official working. The system has in the main depended for its effectiveness on the experience, wisdom, and energy of the services themselves. It has for the most part been represented by the Indian Civil Service, which, though having little to do with the technical departments of government, has for over one hundred years in practice had the administration entrusted to its hands, because with the exception of the offices of the Governor General, Governors, and some members of the executive councils it has held practically all the places involving superior control. It has been in effect much more of a government corporation than of a purely civil service in the English sense. It has been made a reproach to the Indian Civil Service that it regards itself as the Government; but a view which strikes the critic familiar with parliamentary government as arrogant is little more than a condensed truth. It has long been a tradition of the service that men in it are entitled not merely to administer, but to advise. From the outset of their career they have been habituated to the exercise of responsibility; they have had to take important decisions of their own in emergencies; and they have acquired at first hand, and not merely from precedent or prescription, a stock of practical knowledge which they have been used and been encouraged to contribute to a common purpose. Because they have looked forward to attaining positions where they could decide or help to decide policy they have, within the restraints imposed by discipline and good order, been accustomed to express their ideas freely as to India's needs, and to criticize and advise a government which has in essentials been one with themselves.

Effect of our proposals. In the district.

127. It is a commonplace to say that Indian administration in the past has depended mainly upon the district officer. We believe that no testimony of ours is needed to the character of his labours. The greatest work that has been done in India has been the familiarization of the people at large with standards of public character and conduct which they accept as higher than their own. The country people have, and always have had, confidence in the English official because of his integrity, fair play, and detachment. He has given them peace and justice and made life easier for them, and the vast majority of people asks for little more. It is impossible but that the application of our guiding principles should react on the district organization, and we have to see how this will be. Clearly our first and immediate task is to make a living reality of local self-government. This cannot be done by a few amendments of the Indian statute book and a few notifications and executive orders. Such methods only prepare the ground. We can bid the Government official—district officer or tahsildar—step aside from his position as executive officer of the boards, and assume

for the future the rôle of onlooker and friendly adviser. We can transfer the execution of the board's orders from subordinates responsible to Government to employés of the boards themselves and, in part, we may perhaps hope, to honorary agency. But we cannot ourselves breathe the breath of life into these institutions. That must come with the awakening of the sense of duty and public spirit which the war has fostered, and which opportunity will develop.

And on the services.

128. Further, as the principle of popular control is admitted into the Government through the medium of the legislative councils, some means must be devised of enabling the established services to fall in with the new order of things. The precise means of doing so will depend on what we have to propose hereafter as regards the machinery of government. Naturally, there will be many men to whom the change will be irksome, while some men will find it grateful. But we shall be wise to minimize by every means that human foresight can devise the friction which a change in a long-established system tends to produce. Our aim throughout must be to make the change not needlessly difficult for the services, to enlist their co-operation with the popular element in the Government, and to induce on both sides the habit of good-will and mutual toleration, which is essential if India is to pass peaceably through the trying transitional period in front of her. We have, as we shall show, made due provision for the exercise of the duty which lies upon us to protect the services : but without good-will and a readiness to co-operate it will not be possible either to retain the men who compose them, or to get from them the best that they can give. Our labours will be vain, and worse than vain, unless the Indian public men, who will be responsible for the working of the reforms which we advise, succeed in so working them as to retain for India the willing help and guidance of many men like those who have led her thus far on her way, until such time as she has produced a generation of administrators of her own to compare with them in strength and foresight, integrity and detachment. Of the services much is being asked. We are confident that they will respond to the demand. But it will rest with the Indian leaders also to show themselves capable of statesmanship and self-restraint.

Chapter VI.—The Conditions of the Problem.

Effects of British rule.

129. We have seen how British rule succeeded the personal, absolute, centralized Moghul Empire; and how the destinies of the people of India thereby became linked with those of an European nation, homogeneous by reasons of history and their island situation, which had developed under peculiarly favourable conditions the principle of self-government. India's own destiny had been different. She had been for ages plagued with invasion and split up and parcelled out by conquering foreigners or contending kings, and her people had become sub-divided, in a manner to which there is no parallel in the world, by the inveterate antagonism of different races and religions. The miseries of the period of chaos which ensued upon the break-up of Moghul rule have now almost faded from the mind of India; but for a long time they made her thankful for the peace and order which British rule conferred. We cannot summarize what followed better than in the words of Sir Alfred Lyall:—

"It may be affirmed that the moral and material civilization of the Indian people has made more progress in the last fifty years than during all the preceding centuries of their history. Yet it has inevitably come to pass that the differences of wealth and learning, frequent intercourse with Europe, and the saturation of the educated classes with Western ideas and political axioms have stimulated the desire for a larger share in the government of their country among the leaders of native public opinion. An efficient administration no longer satisfies them; on the contrary, it has created ulterior hopes and aspirations. We began with great organic reforms, with improving the police and the prisons, with codes of law, a hierarchy of courts of justice, a trained civil service, and all the apparatus of a modern executive. Latterly we have undertaken the gradual introduction of representative institutions, legislative councils in all the important provinces, and municipalities in every substantial town; we are seriously preparing for the slow devolution of local and provincial self-government.

"But the task of building up any substantial edifice of constitutional government in India is by no means easy, for all wide and uniform measures of reform are hindered by the immense area of the country, and especially by the number and diversity of its population; and undoubtedly this is an operation of extraordinary difficulty, since we have no precedents to guide us in the experiment. It must certainly be conducted within the limitations necessary to preserve undisturbed and indisputable the fabric of British sovereignty, which is to the political machine what the iron rails are to the locomotive, the foundation and permanent way upon which all progress must move. Nevertheless, some solution of this difficulty is demanded; for now that the English have accomplished the building up, after the high Roman fashion, of an immense polyglot Empire, the stability of the structure must depend upon a skilful distribution of weight, because excessive centralization is radically insecure, and supports are useless without some capacity to resist pressure. The solution of these problems requires the sympathetic insight, as well as the scientific methods of statesmanship, supplemented by the good-will and the growing intelligence of the Indian people."

Purpose of present chapter.

130. It will be agreed that the character of political institutions reacts upon the character of the people. This fact, that the exercise of responsibility calls forth the capacity for it, is the best ground for confidence in

the working of self-government in India. At the same time we hold that, even from the beginning, political institutions must be devised with due regard to the conditions under which they will be worked; and, therefore, before we set forth our ideas of India's new constitution, we propose in this chapter to describe as justly as we can the character of Indian society, and the extent and kind of the political consciousness which it has hitherto evolved, so as to provide a touch-stone to which all our suggestions may be brought. The task is not easy. Conditions vary enormously; our description must be a composite picture, and will not apply equally to all localities.

Basis of a system of responsibility.

131. A material difficulty is that the matters most essential to our purpose do not readily lend themselves to statistical exposition. Let us remember what the working of responsible institutions in their typical form involves. The electors send men to the councils with power to act in their name, and the councils commit power to ministers, over whom they reserve control in the form of the power of removing them from office. The elector controls his government, because if his representative in council supports ministers of whom he disapproves he can at the next election change his representative. The system presupposes in those who work it such a perception of, and loyalty to, the common interests as enables the decision of the majority to be peaceably accepted. This means that majorities must practice toleration and minorities patience. There must in fact be not merely a certain capacity for business, but, what is much more important, a real perception of the public welfare as something apart from, and with superior claims to, the individual good. The basis of the whole system is a lively and effective sense of the sanctity of other people's rights.

Conditions in India.

132. These qualities are only developed by exercise; they are greatly affected by education, occupation, and social organization; but ultimately they rest on the traditions and habits of thought of the people. We cannot go simply to statistics for the measure of these things. We cannot turn to the census tables and tabulate according to wealth, or literacy, or occupation the number of people who might reasonably be given the franchise. None the less we must try to realize the broad facts. Two dominating conditions will be quickly apparent to anyone who turns to the records and reports. One is that the immense masses of the people are poor, ignorant, and helpless far beyond the standards of Europe; and the other is that there runs through Indian society a series of cleavages—of religion, race, and caste—which constantly threaten its solidarity, and of which any wise political scheme must take serious heed.

Immensity of the problem.

133. Now let us face squarely the immensity and difficulty of the problem. British India has two and a half times the population of the United States. The United Provinces and Bengal hold each as many people as the British Isles. We may compare

Bihar and Orissa in respect of population with France, Bombay with Austria, and the Punjab with Spain and Portugal combined. In England and Wales four-fifths of the people live in towns. India has many ancient and historic cities, but taken all together they hold but a tiny fraction of her enormous population. It may perhaps be assumed that the first approach to urban conditions occurs when ten thousand people reside together in one place; for on that scale questions of water-supply and lighting and drainage—the material things which awake men to a consciousness of their common needs as neighbours— begin to be a serious concern. On that basis we may say that 226 out of 244 millions of people in British India live a rural life: and the proportion of these who ever give a thought to matters beyond the horizon of their villages is very small. Agriculture is the one great occupation of the people. In normal times a highly industrialized country like England gives 58 persons out of every hundred to industry, and only 8 to agriculture. But India gives out of every hundred 71 to agriculture or pasture, 12 to industry, 5 to trade, 2 to domestic service, 1½ to the professions, and 1½ to Government service or the army. In the whole of India the soil supports 225 out of 315 millions, and 208 millions of them get their living directly by, or depend directly upon, the cultivation of their own or others' fields. What concerns them is mainly the rainfall or the irrigation supply from wells or canals, the price of grain and cloth, the payment of rent to the landlord or revenue to the State, the repayment of advances to the village banker, the observance of religious festivals, the education of their sons, the marriage of their daughters, their health and that of their cattle. They visit the local town on bazaar days and the sub-divisional or district centre rarely on business or litigation. They are not concerned with district boards or municipal boards; many of them know of no executive power above the district officer, and of Parliament or even of the legislative councils they have never heard. In one province it is stated that 93 per cent of the people live and die in the place where they were born. Similar concerns are perhaps the main interests of the population of some country districts in the United Kingdom. But in India the conditions indicated apply to the great mass of the population.

Extent of education.

134. The educational returns tell us much the same story. In British India 6 per cent of the population, males and females together, were able at the last census to comply with the test of literacy which consisted in reading and writing a letter in their own script. It has no doubt risen perceptibly in the seven years since 1911. The percentage was much higher (11) in the case of men than in that of women (1·1). It was also naturally much higher in large cities, where it rose to 30 per cent. Aryas, Brahmos, Parsis and Jains are the best educated classes; then in order Buddhists, Christians and Sikhs. Among Hindus education is very much a matter of caste; some of the higher castes are better read than Buddhists, others are

far lower down. Muslims also come low in the list. The knowledge of English is confined to less than two million people, a fractional percentage of the entire population.

Distribution of wealth.

135. The Indian Government compiles no statistics showing the distribution of wealth, but such incomplete figures as we have obtained show that the number of persons enjoying a substantial income is very small. In one province the total number of persons who enjoyed an income of £66 a year derived from other sources than land was 30,000; in another province 20,000. The revenue and rent returns also show how small the average agricultural holding is. According to one estimate the number of landlords whose income derived from their proprietary holdings exceeds £20 a year in the United Provinces is about 126,000 out of a population of 48 millions. It is evident that the curve of wealth descends very steeply, and that enormous masses of the population have little to spare for more than the necessaries of life.

Extent of interest in political questions.

136. The fraction of the people who are town-dwellers contribute only a very small proportion to the revenues of the State; but among them education has made some headway, municipal institutions have been at work, and the presence of political leaders among the professional classes has made itself felt. This is the radius to which interest in political problems is chiefly confined. The question is often asked—What ratio of the people really asks for greater political power? It cannot be answered with any accuracy by tabulating the circulation of newspapers, the number of societies, the sum-total of professional men or traders, or the population of colleges. There is a core of earnest men who believe sincerely and strive for political progress; around them a ring of less educated people to whom a phrase or a sentiment appeals; and an outside fringe of those who have been described as "attracted by curiosity to this new thing or who find diversion in attacking a big and very solemn government as urchins might take a perilous joy in casting toy darts at an elephant." On the other hand, is an enormous country population, for the most part poor, ignorant, non-politically-minded, and unused to any system of elections—immersed indeed in the struggle for existence. The rural classes have the greatest stake in the country because they contribute most to its revenues; but they are poorly equipped for politics and do not at present wish to take part in them. Among them are a few great landlords and a larger number of yeoman farmers. They are not ill-fitted to play a part in affairs, but with few exceptions they have not yet done so. But what is perhaps more important to appreciate than the mere content of political life in India is its rate of growth. No one who has observed Indian life during even the past five years can doubt that the growth is rapid and is real. It is beginning to affect the large landholders; here and there are signs of its beginning to affect even the villages. But recent events, and above all the war, have given it a new earnestness and a more practical character. Men are coming to realize more clearly that India's political future is not to be won merely

by fine phrases; and that it depends on the capacity of her people themselves to face difficulties and to dispose of them. Hence comes the demand for compulsory education, for industries, for tariffs, for social reform, for social, public, and even military, service. For a long time many Indian leaders were content to criticize; they have now begun to construct; and because construction is a matter in which the Government can so greatly help or hinder they are more than ever anxious to take a share in the Government itself.

Political capacity of the rural population.

137. The potential capacity for politics of the rural population, of whom the peasant proprietor and the tenant are typical, is discussed in the following extract from an official report:—

"Our rule gave them security from the violence of robbers and the exactions of landlords, regulated the amounts of revenue or rent that they had to pay, and assured to both proprietor and cultivator—in the latter case by the device of the occupancy right—a safe title in their lands. The change was so great that they sank into a condition of lethargic content; even yet they have barely realized that Government has any other gifts to offer; as for the idea of self-government it is simply a planet that has not yet risen above their horizon.

"But there are signs of awakening. They have already learnt an important lesson—that it is legitimate to bring their troubles to the notice of Government and that a good Government will listen to them with sympathy. They are often contemptuously branded as the 'voiceless millions of India'; but the charge is untrue. They do not ask much, or often, but that is because they want so little. Nevertheless, if they are aggrieved, they do not hesitate to say so. They may not be vocal, but they are certainly not voiceless.

"Hitherto, they have regarded the official as their representative in the councils of government; and now we have to tear up that faith by the roots, to teach them that in future they must bring their troubles to the notice of an elected representative—further, that they have the power to compel his attention. We have to bring about the most radical revolution in the people's traditional ideas of the relations between ruler and ruled, and it will be a difficult, and even a dangerous business, for it is neither safe nor easy to meddle with traditional ideas in India. Unless the political changes now in contemplation are accompanied by an educational campaign directed to awaking in all classes alike, but especially in this particular class, a sense of citizenship, disaster will certainly result."

Interests of the ryot.

138. It is just because the Indian ryot is inarticulate and has not been directly represented in our deliberations that we feel bound to emphasize the great claim he has upon our consideration. The figure of the individual cultivator does not often catch the eye of the Governments in Simla and Whitehall. It is chiefly in the mass that they deal with him, as a consumer of salt or of piece-goods, or unhappily too often, as the victim of scarcity or disease. But the district officer and his lieutenants know well the difficulties that beset him, and his very human needs; and in the local revenue offices these make up nine-tenths of the public business done. What matters most of all to the ryot are his relations with his landlord; but his fortunes are by no means to be disposed of by considering them solely from the standpoint of "agrarian legislation." Much of the activity of Government comes home to him eventually; and whatever helps him in his difficulties adds enormously to the happi-

ness of the country as a whole. It is not merely a matter of securing him in possession of his plot of land, of assessing his dues equitably and collecting them with discrimination, of advancing him money in bad days and waiting till he is in a position to repay it. A simple, cheap, and certain system of law is one of his greatest needs. He greatly requires to be protected against the intricacies of courts and the subtleties of law, and enabled to defeat the advantage enjoyed by long-pursed opponents. The working of all the great procedure codes, the law of usury, of registration, of limitation, of contract, the Court-fees Act, and the Stamp Act, is felt in the remotest village in the land. The ryot and hundreds of thousands of his kind may be lifted from penury to comfort by a canal project costing millions of pounds. One of his constant needs is protection against the exaction of petty official oppressors. Improvements in seed or stock, manures, ploughs, wells; the building of a new road or a new railway: facilities for grazing his cattle or getting wood for his implements; the protection of his crop from wild animals, his cattle from disease, and his brass vessels from burglars; co-operative banks to lend him money and co-operative societies to develop his market; the provision of schools and dispensaries within reasonable distance—these are the things that make all the difference to his life. They have all been dispensed for him by an official government in the past; and we must always bear in mind that he will not find it easy to learn to arrange them for himself in future. He has sat on caste *panchayats*; he has signed joint petitions to official authority. But he has never exercised a vote on public questions. His mind has been made up for him by his landlord or banker or his priest or his relatives or the nearest official. These facts make it an imperative duty to assist, and to protect, him while he is learning to shoulder political responsibilities.

The politically-minded class.

139. In estimating the politically-minded portion of the people of India we should not go either to census reports on the one hand, or to political literature on the other. It is one of the most difficult portions of our task to see them in their right relation to the rest of the country. Our obligations to them are plain for they are intellectually our children. They have imbibed ideas which we ourselves have set before them and we ought to reckon it to their credit. The present intellectual and moral stir in India is no reproach, but rather a tribute to our work. The *Raj* would have been a mechanical and iron thing if the spirit of India had not responded to it. We must remember, too, that the educated Indian has come to the front by hard work; he has seized the education which we offered him because he first saw its advantages; and it is he who has advocated and worked for political progress. All this stands to his credit. For 30 years he has developed in his Congress, and latterly in the Muslim League, free popular convocations which express his ideals. We owe him sympathy because he has conceived and pursued the idea of managing his own affairs, an aim which no Englishman can fail to respect. He has made a skilful, and on the

whole a moderate, use of the opportunities which we have given him in the legislative councils of influencing Government and effecting the course of public business, and of recent years he has by speeches and in the press done much to spread the idea of a united and self-respecting India among thousands who had no such conception in their minds. Helped by the inability of the other classes in India to play a prominent part he has assumed the place of leader; but his authority is by no means universally acknowledged and may in an emergency prove weak.

Their relations to the masses

140. The prospects of advance very greatly depend upon how far the educated Indian is in sympathy with and capable of fairly representing the illiterate masses. The old assumption that the interests of the ryot must be confided to official hands is strenuously denied by modern educated Indians. They claim that the European official must by his lack of imagination and comparative lack of skill in tongues be gravely handicapped in interpreting the thoughts and desires of an Asiatic people. On the other hand it is argued that in the limited spread of education the endurance of caste exclusiveness, and of usages sanctioned by caste, and in the records of some local bodies and councils may be found reasons which suggest that the politically-minded classes stand somewhat apart from, and in advance of, the ordinary life of the country. Nor would it be surprising if this were the case. Our educational policy in the past aimed at satisfying the few who sought after English education without sufficient thought of the consequences which might ensue from not taking care to extend instruction to the many. We have in fact created a limited *intellegentia* who desire advance; and we cannot stay their progress entirely until education has been extended to the masses. It has been made a reproach to the educated classes that they have followed too exclusively after one or two pursuits, the law, journalism or school teaching: and that these are all callings which make men inclined to overrate the importance of words and phrases. But even if there is substance in the count, we must take note also how far the past policy of Government is responsible. We have not succeeded in making education practical. It is only now, when the war has revealed the importance of industry, that we have deliberately set about encouraging Indians to undertake the creation of wealth by industrial enterprise, and have thereby offered the educated classes any tangible inducement to overcome their traditional inclination to look down on practical forms of energy. We must admit that the educated Indian is a creation peculiarly of our own; and if we take the credit that is due to us for his strong points we must admit a similar liability for his weak ones. Let us note also in justice to him that the progressive Indian appears to realize the narrow basis of his position and is beginning to broaden it. In municipal and university work he has taken a useful and creditable share. We find him organizing effort not for political ends alone, but for various forms of public and social service. He has come forward and done valuable work in relieving famine and distress by

floods, in keeping order at fairs, in helping pilgrims, and in promoting co-operative credit. Although his ventures in the fields of commerce have not been always fortunate he is beginning to turn his attention more to the improvement of agriculture and industry. Above all he is active in promoting education and sanitation; and every increase in the number of educated people adds to his influence and authority.

141. Now let us turn to the other main feature of Indian society —its division by races, creeds and castes. Thirty years ago Lord Dufferin drew the following picture of India:—

Divisions of Indian society.

"This population is composed of a large number of distinct nationalities, professing various religions, practising diverse rites, speaking different languages, while many of them are still further separated from one another by discordant prejudices, by conflicting source of usages, and even antagonistic material interests. But perhaps the most patent characteristic of our Indian cosmos is its division into two mighty political communities as distant from each other as the poles asunder in their religious faith, their historical antecedents, their social organization, and their natural aptitudes: on the one hand the Hindus numbering 190 millions, with their polytheistic beliefs, their temples adorned with images and idols, their venerations for the sacred cow, their elaborate caste distinctions, and their habits of submission to successive conquerors—on the other hand, the Mahomedans, a nation of 50 millions, with their monotheism, their iconoclastic fanaticism, their animal sacrifices, their social equality, and their remembrance of the days when, enthroned at Delhi, they reigned supreme from the Himalayas to Cape Comorin. To these must be added a host of minor nationalities—most of them numbering millions—almost as widely differentiated from one another by ethnological or political distinctions as are the Hindus from the Mahomedans, such as the Sikhs, with their warlike habits and traditions and their enthusiastic religious beliefs—the Rohillas, the Pathans, the Assamese—the Baluchees, and other wild and martial tribes on our frontiers—the hillmen dwelling in the folds of the Himalayas—our subjects in Burma, Mongol in race and Buddhist in religion—the Khonds, Mhairs, and Bheels, and other non-Aryan peoples in the centre and south of India—and the enterprising Parsees, with their rapidly developing manufactures and commercial interests. Again, amongst these numerous communities may be found at one and the same moment all the various stages of civilization through which mankind has passed from the prehistoric ages to the present day. At one end of the scale we have the naked savage hillman, with his stone weapons, his head-hunting, his polyandrous habits, and his childish superstitions; and at the other, the Europeanized native gentleman, with his English costume, his advanced democratic ideas, his Western philosophy, and his literary culture; while between the two lies layer upon layer, or in close juxtaposition, wandering communities with their flocks of goats and moving tents; collections of undisciplined warriors, with their blood feuds, their clan organization, and loose tribal government; feudal chiefs and barons with their retainers, their seignorial jurisdiction, and their mediæval notions; and modernized country gentlemen and enterprising merchants and manufacturers, with their well-managed estates and prosperous enterprises."

The colours of the picture have since toned down. The generation that has passed since Lord Dufferin wrote has witnessed great growth. Schools have more than doubled; higher education has increased threefold; printing presses and newspapers have multiplied; and the production of books in English has increased by 200 per cent. The spread of Western education has brought India more into touch with the outside world, and tended constantly, though slowly, to break down the barriers of social and religious customs.

The sense of unity is growing and has been quickened by the war. As the Public Services Commission saw, not merely is there greater communion of thought among educated Indians themselves but also closer communion of thought between educated India and England. At the same time they go on to say:—

"Even amongst the educated the conflicting traditions of Hindus and Muhammadans are still constantly reflected in their respective attitudes towards social and political questions of the first order, whilst, in addition to this main line of religious cleavage, there are other important communities such as Sikhs, Parsis, Buddhists (chiefly in Burma) and Indian Christians, who are all more or less widely separated from the bulk of the population, either Hindu or Muhammadan. Nor does religion constitute the only line of cleavage. Geographical and climatic as well as social conditions have also helped to preserve down to our own times differences originally imported into India by successive waves of conquest and migration. Of all these considerations it would be unwise not to take cognizance. But it would be equally unwise to ignore that growing body of Western educated opinion, which is gradually creating a new atmosphere all over India. Even those who most strongly deprecate some of its manifestations realize that it has contributed largely to the great social and religious movements, which are aiming at giving a new direction to old beliefs and at harmonizing ancient doctrines with the teachings of science. It is reflected in that new sense of unity which is displacing the idea of ordained separation hitherto prevalent in Indian society."

Variety of local conditions.

142. Thus from a bird's eye view India is still a country "marching in uneven stages through all the centuries from the fifth to the twentieth." There are tracts where it would be fantasy to dream of representative institutions. There are everywhere people so ignorant and so depressed as necessarily to lie outside the limits of any franchises which can at the outset be framed. Even within the limits to which the new constitution can be applied there ared to [illegible]ences of conditions of which account must be taken in applying it. And running through the whole body politic is a series of divisions of sect and race which, as the Public Services Commission saw, still affects the mind of educated Indians.

Reasons for emphasizing the difficulties.

143. Imperfect as it is, this sketch may serve to bring out the chief elements of the Indian part of the complex and heterogeneous total known as British India. We refer to the other components later on. Why have we tried to describe the complexities of the task before us, and in particular why have we laid stress upon the existence of silent depths through which the cry of the press and the platform never rings? In the first place of course we wish to insist on the importance of these factors in considering the time necessary for the complete attainment of responsible government in a country where in spite of rapid processes of growth so great a majority of the people do not ask for it, and are not yet fitted for it. But our chief purpose is more important than this. We desire to test the wisdom of the announcement of August 20. If we have conceded all that can fairly be said as to the difficulties of the task before us then the policy which has been laid down can be judged in the light of all the facts.

144. We believe that the announcement of August 20 was right and wise; and that the policy which it embodies is the only possible policy for India. We have seen it estimated that the number of people who really ask for free institutions does not exceed 5 per cent of the population. It is in any case a small proportion; but to the particular numeral we attach no importance whatever. We are not setting about to stir 95 per cent of the people out of their peaceful conservatism and setting their feet upon a new and difficult path merely at the bidding of the other 5 per cent; nor would that be our reason, whether the articulate minority were 20 per cent or one-half per cent of the whole. Our reason is the faith that is in us. We have shown how step by step British policy in India has been steadily directed to a point at which the question of a self-governing India was bound to arise; how impulses, at first faint, have been encouraged by education and opportunity; how the growth quickened nine years ago, and was immeasurably accelerated by the war. We measure it not by the crowds at political meetings or the multiplication of newspapers, but by the infallible signs that indicate the growth of character. We believe profoundly that the time has now come when the sheltered existence which we have given India cannot be prolonged without damage to her national life; that we have a richer gift for her people than any that we have yet bestowed on them; that nationhood within the Empire represents something better than anything India has hitherto attained; that the placid, pathetic contentment of the masses is not the soil on which such Indian nationhood will grow, and that in deliberately disturbing it we are working for her highest good.

The justification of an advance.

145. If then our faith is right what are the conditions of success? Obviously there is much to change. The habits of generations have to be softened if not overcome; we have to call forth capacity and self-reliance in the place of helplessness; nationhood in place of caste or communal feeling. But we have great influences working with us in the spirit of liberty that is stirring in Asia as in the rest of the world, and the intense desire of educated Indians to prove that their long period of tutelage may be ended and that they may take their place in the forefront of the world as a self-governing part of the Empire. The task is a great and worthy one, but it calls for some effort and self-sacrifice from every element in the community.

Conditions of success.

146. Let us begin with the ryot because his is the most difficult case. When local bodies are developed some of his class will have a vote on local questions. He will thus begin to discover that if there is no school near his village or no road to take him to market, the right way to procure these benefits is, not as heretofore by asking the Collector for them, but by voting for the local board member who is most likely to get them for him. The process will be an uphill one; it will take time; and very probably advance can only come through previous failure. The rural voter will

Political education of the ryot.

perhaps find himself cajoled, or bought, or coerced into voting in a way that does himself no good. But eventually it will dawn upon him, as it has done upon the agricultural classes elsewhere, that because he has a vote he has the means of protecting himself and that if those who claim to represent him neglect his interests he can discard them. As his political education proceeds, he will come to apply the lesson learned in local affairs to the affairs of Government also. It will occur to him eventually that if landlords are oppressive and usurers grasping and subordinate officials corrupt he has at his command a better weapon than the *lathi* or the hatchet with which to redress his wrongs. He will gradually learn that though the Government is far off he can take a remote part in determining its action, and he will find that because the infinitesimal power which he wields is in the aggregate effective the Government becomes more sensitively alive and responsive to his needs. But his rate of progress will always depend upon the measure of assistance which he receives; and we look to both officials and candidates to feel a responsibility for helping him. Finally he will come to realize that if he is to deal effectively with the more clever and better educated men who represent him in the councils he must acquire learning; and education, which he rejected so long as it merely seemed to him to clash with his material interests by depriving him of his children's labour and then unfitting them to follow the plough after him, will acquire in his eyes a new attractiveness when it presents itself to him as a factor in the process of getting better tenure or easier advances for himself. The present times are favourable to growth. The minds of India's peasant soldiery who have returned from abroad will never again work quite in the old way and they will relate their experiences to many who stayed at home. But we feel no doubt that in learning to rise to his new responsibilities the Indian peasant voter will need all the help that other people, officials and non-officials alike, can give him.

Obligations of the landed aristocracy

147. The natural and acknowledged leaders in country areas are the landed aristocracy. They generally represent ancient and well-born families, and their estates are often the result of conquest or grants from some mediæval monarch. By position, influence, and education they are fitted to take a leading part in public affairs. Some of them are beginning to do so; and our aim must be to call many more of them out into the political lists. They are conservative like the ryot, but like him they also will learn the need to move with changing times. They also, when they perceive that the protection of interests which are dear to them depends upon doing so, will find out how to organize, and to argue, and to make speeches. It will be no very easy task for them. They stand upon a conception of social order which is not easily reconcilable with the hustings and the ballot box. But undoubtedly they are called to take their places in the new régime, and to recognize that political life need not impair their dignity and self-respect. Like the represent-

atives of their class in other countries they must learn to fulfil the responsibilities of their position in a new way. After all they start with considerable advantages inasmuch as they have command both of means and position. We must give them a special measure of representation, if they need it, at the outset; but it may be that their political education like the ryot's will come mainly by pressure of events.

And of the smaller gentry.

148. For the smaller landed gentry the task will, we hope, be easier. Their estates have often a more utilitarian origin; they are descended from the officials of old-time governments, from farmers of revenue, from younger sons, dependents, or captains who received grants of land for maintenance or good service. They are less influential, but often not less educated, than their former overlords, and being unhampered with the traditions of nobility they will be less averse to playing their part in public affairs. Indeed they figure already upon local and district boards; and there is hope that they will furnish a useful and independent contingent to the legislative bodies of the future. No men are better qualified to advise with understanding and great natural shrewdness on the great mass of rural questions which will come before the provincial legislatures.

Duty of the educated classes towards the ryot.

149. To the educated classes we would address a similar appeal. If they resent the suggestion that has been made that they have hitherto safeguarded their own position and shown insufficient interest in the peasant and labouring population, now is the opportunity for them to acquit themselves of such an imputation and to come forward as leaders of the people as a whole. Hope for the future lies along the lines which the great leaders of Indian opinion have already eloquently pointed out and which, as we have said, some advanced Indians are beginning to pursue. As Mr. Gokhale said: —

"There is work enough for the most enthusiastic lover of his country. On every side whichever way we turn only one sight meets the eye, that of work to be done; and only one cry is heard, that there are but few faithful workers. The elevation of the depressed classes, who have to be brought up to the level of the rest of our people, universal elementary education, co-operation, improvement of the economic condition of the peasantry, higher education of women, spread of industrial and technical education, building up the industrial strength, promotion of closer relations between the different communities—these are some of the tasks which lie in front of us, and each of them needs a whole army of devoted missionaries."

It is indeed plain that there is an immense work of education to be done throughout the countryside. Everything that tends to waken the Indian ryot's intelligence, that helps him to be an independent, self-determining man; everything that breaks down the barriers between communities, and makes men regard each other as neighbours, and not as the wearers of some caste or creed insignia hastens on the day when self-government within the Empire will be attained. All this is work that the educated Indian can, and ought to, undertake. The work is more than arduous. It demands men who are really thinking of their country, who really have the

interests of the masses at heart—men of courage and fixity of purpose, who do not fear responsibility, and are capable of leadership.

And towards agitation.

150. Together with this there is a very real responsibility of the utmost importance. There exists a small revolutionary party deluded by hatred of British rule and desire for the elimination of the Englishman into the belief that the path to independence or constitutional liberty lies through anarchical crime. Now it may be that such persons will see for themselves the wisdom of abandoning methods which are as futile as criminal; though, if they do not, the powers of the law are, or can be made, sufficient for the maintenance of order. But the existence of such people is a warning against the possible consequences of unrestrained agitation in India. We are justified in calling on the political leaders, in the work of education that they will undertake, to bear carefully in mind the political inexperience of their hearers; and to look for further progress, not to fiery agitation, which may have consequences quite beyond their grasp, but to the machinery which we devise for the purpose. In every country there will be persons who love agitation for agitation's sake, or to whom it appeals like an intoxicant. It is the duty of the leaders of Indian opinion to remember the effect on people not accustomed to weighing words of fiery and heated speeches. Where ignorance is widespread and passions are so easily aroused nothing is easier than for political leaders to excite a storm; nothing harder for them than to allay it. Breaches of the peace or crimes of violence only put back the political clock. Above all things, when the future of India depends upon co-operation among all races, attacks upon one race or religion or upon another jeopardize the whole experiment. Nor can the condemnation of extremist and revolutionary action be left only to the official classes. We call upon all those who claim to be leaders to condemn with us, and to support us, in dealing with methods of agitation which drive schoolboys to crime and lead to religious and agrarian disturbances. Now that His Majesty's Government have declared their policy reasonable men have something which they can oppose successfully to the excitement created by attacks on Government and by abuse of Englishmen, coupled with glowing and inaccurate accounts of India's golden past and appeals to race hatred in the name of religion. Many prominent Indians dislike and fear such methods. A new opportunity is now being offered to combat them; and we expect them to take it. Disorder must be prejudicial to the cause of progress, and especially disorder as a political weapon. But we have no hesitation in recommending that the Government must maintain power to prevent the disastrous consequences if in any case law and order are jeopardized. Outbreaks of anarchy cannot be tolerated.

Duty of discouraging religious animosities.

151. Finally, what of the differences between races and creeds? We do not propose to review the evidence placed before us showing the extent to which they still endure. But we must take them

into account as presenting a feature of Indian society which is out of harmony with the ideas on which elsewhere in the world representative institutions rest. We have of course no intention of interfering with question of a religious nature or bound up with religious beliefs, which it is the duty of Government so far as possible to respect and to leave alone. But we can at least appeal to Hindu and Muslim, Brahman and non-Brahman, to cultivate a community of interests in the greater welfare of the whole. On them all rests a greater responsibility for the development of their common country, and the realization of this truth will be the surest way, perhaps the only way, of ending disunion. Self-government for India within the Empire is the highest aim which her people can set before themselves or, which we as trustees for her, can help her to attain. Without it there can be no fullness of civic life, no satisfaction of the natural aspirations which fill the soul of every self-respecting man. The vision is one that may well lift men up to resolve on things that seemed impossible before. Is it too much to hope that the desire of the people of India so to govern themselves, and the conviction that they can never do so otherwise in any real sense, may prove eventually to be the solvent of these difficulties of race and creed? The first duty of the leaders of every party in the State is to unteach partisanship. If the Hindu or the Muslim displays intolerance of the other's religious practices, if the higher castes refuse to admit the children of low castes to schools which their own sons attend or if caste exclusiveness takes even harsher shape towards the outcastes, it is the business of the enlightened leaders of the community to explain to them that they are only retarding a cause that ought to be dearer to them than their own sectional interests. So long as the latter are paramount any form of self-government to which India can attain must be limited and unreal at best. But our aim is that it should be complete and real and to this end as we have stated it, our reforms are designed.

Possible effect of the reforms.

152. Nor are we without hope that the reforms will themselves help to provide the remedy. We would not be misunderstood. Representative institutions in the West, where all are equal at the ballot box, have checked, but not abolished, social exclusiveness. We do not make a higher claim for similar institutions in India than that they will help to soften the rigidity of the caste system. But we hope that those incidents of it which lead to the permanent degradation and ostracism of the lowest castes will tend to disappear in proportion to the acceptance of the ideas on which the new constitution rests. There is a further point. An autocratic administration, which does not share the religious ideas of the people, obviously finds its sole safe ground in leaving the whole department of traditional social usage severely alone. In such matters as child-marriage it is possible that, through excess of caution proper to the régime under which it works, it may be actually perpetuating and stereotyping customs which the better mind of India might be brought, after the necessary period of struggle, to modify. A government, in which

Indians themselves participate, invigorated by a closer touch with a more enlightened popular opinion, may be able, with all due caution, to effect, with the free assent or acquiescence of the Indians themselves, what under the present system has to be rigorously set aside.

153. So far we have tried, without underestimate or reserve, to set out the difficulties that undoubtedly attend the introduction of responsible institutions into India. They have to be taken into account, and they must lead us to adjust the forms of popular government familiar elsewhere to the special conditions of Indian life. But we have also seen that there is good reason for hope. Free institutions have, as we have said, the faculty of reacting on the adverse conditions in which the start has to be made. The backwardness of education may embarrass the experiment at the outset; but it certainly ought not to stop it, because popular government in India, as elsewhere, is sure to promote the progressive spread of education and so a widening circle of improvement will be set up. While, however, we do not doubt the eventual capacity of Indians for self-government, we find it freely and widely admitted that they are not at present ready. Indeed the facts that we have endeavoured to bring out make this obvious. The successful working of popular government rests not so much on statutes and written constitutions, as on the gradual building up of conventions, customs, and traditions. These are based on the experience and political thought of the people, but are understood and appreciated by both the governed and the Government. Nothing but time can adequately strengthen them to support the strain to which they are exposed. There are examples, ancient and contemporary alike, to point the moral of the disasters which during a period of transition from official to popular rule may follow from ignoring this fundamental truth.

Advance must be gradual.

154. While therefore we believe that the policy is right, and we believe that it will succeed by enlisting on its side the best efforts and the highest thoughts of India, we recognize also that there are precautions to be taken. The difficulty that outweighs all others is the existence of religious differences. We may be told the political union achieved in December 1916 between Muslims and Hindus was an impressive demonstration of willingness to sink acute differences for a common end. We entirely agree that it is worthy of praise as testimony to the growing force of national feeling. The last thing that we desire is to see it broken. But we are bound to ask ourselves what sure guarantee it affords that religious dissensions between the great communities are over. The compact by which the Muslims were to get a certain proportion of seats in the councils, in some cases in excess of those to which their numbers entitled them, and by which also the discussion of measures affecting either community could only proceed by leave of its representatives in council, shows under what pressure agreement was reached. We shall discuss these provisions in our next chapter. Here we

Provision against religious dissension.

need only say that we cannot regard the *concordat* as conclusive. To our minds, so long as the two communities entertain anything like their present views as to the separateness of their interests, we are bound to regard religious hostilities as still a very serious possibility. The Hindus and Muhammadans of India have certainly not yet achieved unity of purpose, or community of interest. They have yet a long road to pursue before that end is reached. How quickly and violently the ignorant portion, which is also by far the largest portion of either great community, responds to the cry of "religion in danger" has been proved again and again in India's history. The record of last year bears recent witness to it. We should not discharge properly our responsibility for the well-being of the Indian people if we did not take account of the danger that such calamities may happen again; and did not reserve to the Government effective power to deal with them impartially, as it alone can.

And for the protection of the ryot and other interests.

155. To the other difficulties which we have mentioned we propose to apply the same treatment, and while we do everything that we can to encourage Indians to settle their own problems for themselves we must retain power to restrain them from seeking to do so in a way that would threaten the stability of the country. We have shown that the political education of the ryot cannot be a very rapid, and may be a very difficult, process. Till it is complete he must be exposed to the risk of oppression by people who are stronger and cleverer than he is; and until it is clear that his interests can safely be left in his own hands or that the legislative councils represent and consider his interests we must retain power to protect him. So with the depressed classes. We intend to make the best arrangements that we can for their representation, in order that they too may ultimately learn the lesson of self-protection. But if it is found that their interests suffer and that they do not share in the general progress, we must retain the means in our own hands of helping them. So again with other interests which are less completely identified with the common life of India, like those of the British commercial and the Anglo-Indian communities. We offer them representation and we expect them to make good use of it; to learn to play their part in the political life in the country; and to rely not on artificial protection but on their capacity to demonstrate to intelligent Indian opinion their real value in the economy of India. But during the period of transition, when political experience is young and impulse rather than judgment may characterize leadership, we must maintain the power to defend interests for which past history has made us responsible.

And for the services.

156. We shall discuss the case of the public services in a later chapter. But we have definitely to secure their essential interests because we believe that they are indispensable to the future of India, and also because, as has always been recognized at similar periods of transition, His Majesty's services have the strongest possible right to be secured by

His Majesty's Government. At a time when great changes are coming in India, the possible consequences and reactions of which no one can foresee, the element of experience and continuity which the services supply will be of such value that in the interests of India herself they must be secured. Moreover, in the educative work of the immediate future they have an important part to play. Not only will they provide the executive machinery of Government; it will be their part to assist, as only they can do, in the training of the rural classes for self-government; their help will be greatly needed to explain the new principles of government to many who will find them strange. They will be prepared, we have not the slightest doubt, to face some temporary sacrifice of efficiency, recognizing that efficiency may be too dearly bought at the price of moral inanition. We are confident that the services, always conspicuously loyal in the carrying out of any new policy, will respond to this call. We are hopeful that the British element will so enter on a new career, and gain a new security in the progressive development of India. Meanwhile, we repeat that the Government must recognize its responsibilities to those whom it has recruited, and must retain the power to protect and support them in the discharge of the duties imposed upon them.

Position of the Native States.

157. We shall examine separately the series of questions presented by the Native States; but this general survey of the problems before us would not be complete without brief reference to them. "The map of India," says Sir Bampfylde Fuller, "may be likened to an ancient tessellated pavement, the greater part of which has been replaced by slabs of uncoloured stone work. The *tesserae* represent the Native States." They extend over one-third of the country, but being generally less fertile than British India sustain not much more than one-fifth of the total population. We need not now pause to describe the way in which our relations with the Ruling Princes and Chiefs have developed the limitations on their sovereignty; and, on the other hand, the limitations which the Government of India observes upon its interference in their domestic concerns. These matters are regulated by agreements with the States which must be fulfilled whatever changes may occur in British India itself. Our immediate purpose is to point out how changes in British India may react upon the States. As we shall see, the volume of business which is of common concern to the States and to British India is steadily growing in importance. So long as such matters remain ultimately in the hands of the Governor General in Council the Princes may perhaps rest content with the means which they have at present of securing the due consideration of their views. But if the control of matters common to India as a whole is shared with some popular element in the government it must be anticipated that these Rulers may wish to take a share in such control also. There is a stronger reason why the present stir in British India cannot be a matter of indifference to the Princes. Hopes and aspirations may overleap frontier lines like sparks across a street. There are in the Native States men of like

minds to those who have been active in spreading new ideas in India. It is not our task to prophesy; but no one would be surprised if constitutional changes in British India quickened the pace in the Native States as well, if the advanced Princes who have already set up the rudiments of representative institutions were impelled to develop them and if even the most patriarchal Rulers thought it time to clothe their authority in more modern garments. Our business, however, is to observe our treaty obligations and to refrain from interference and to protect the States from it. We must leave the natural forces at work to provide the solution in due course. If change comes in the Native States it can only be by the permeation of ideas and not as a direct result of constitutional changes in British India.

Responsibility for foreign relations.

158. Finally, we come to our supreme responsibility for India's relations with her great Asiatic neighbours, and for the security of six thousand miles of land frontiers and nine thousand miles of seaboard. This line was violated when the *Emden* fired on Madras; and thereby made the realities of war unpleasantly apparent to some hundreds of thousands of Indians. But the military danger that centuries of painful experience have impressed so deeply on the imagination of India that it lingers in the thoughts of her people to the present day is that of invasion from the North-West. This responsibility for India's defence is the ultimate burden which rests on the Government of India; and it is the last duty of all which can be committed to inexperienced or unskilful hands. So long as India depends for her internal and external security upon the army and navy of the United Kingdom the measure of self-determination which she enjoys must be inevitably limited. We cannot think that Parliament would consent to the employment of British arms in support of a policy over which it had no control and of which it might disapprove. The defence of India is an Imperial question; and for this reason the Government of India must retain both the power and the means of discharging its responsibilities for the defence of the country and to the Empire as a whole.

Chapter VII.—The Congress-League Scheme.

Introductory.

159. In tracing the course of recent events in India in chapter I we showed how various influences combined to produce the reform scheme put forward jointly by the Indian National Congress and the All-India Muslim League. This was the latest, most complete, and most authoritative presentation of the claims of the leading Indian political organisations; and as such it was the first to require attention in the course of our inquiry. We found that it commanded so large a measure of support that we were entitled to regard it as disposing of earlier constitutional essays on somewhat similar lines. We have examined it with every desire to bring it into relation with the announcement of August 20; and we will now explain the objections which we feel to some of its features, and why, though we make suggestions similar to other features of it, the principles on which its main proposals are based seem to us essentially unsound.

Provincial autonomy.

160. The scheme assumes, as its basis, a condition of provincial autonomy, entailing the relaxation of control by the Government of India and the Secretary of State over provincial governments, in favour of control by popularly elected legislative councils. We entirely agree that this must be the first aim; and as will be seen later, we have ourselves striven to attain it as far as possible. We need not here pause to explain the limitations which seem to us necessary for the time being in the application of this principle. Our reasons will be clear when we set forth our own proposals for changes in the provincial governments and their relations with the Indian Government. On this foundation the authors of the scheme have erected a form of government by which the people, through their representatives in the legislative councils, would be enabled to control the actions of the nominated and irremovable executive.

Composition of provincial executives.

161. First let us see how it is intended that the provincial executives should be composed. It is proposed that provincial governments should consist of a governor, who should not ordinarily be a member of the Indian Civil Service or any permanent service, together with a council, of which half shall consist of Indian gentlemen elected by the provincial legislative council, and the other half shall not ordinarily include members of the Indian Civil Service. The original scheme contained no suggestion as to the number of members of council, but this omission was made good in a memorandum presented to us by a joint deputation representing the National Congress and the Muslim League which asked that there should be six members. We recognize that educated opinion in India strongly favours council government; and we agree that we should proceed to a general extension of the system.

We agree too that a large element in the government should be Indian, and that part of it should be non-official. But at present there exists no bar to the appointment of members of a permanent service to governorships; and though we propose to assimilate the method of appointment of all heads of provinces we see every disadvantage in such a bar. In practice, presidency governors have almost invariably been selected from England; but members of the services have always been eligible for these appointments, and in this respect there appears to us no good reason to make a change. The personal burden resting upon the head of a province will be heavier in future than in the past, and it is essential that the best men from whatever source should be freely available. Nor can we agree that these councils should have six full-time members; nor that members of the Indian Civil Service should not ordinarily be appointed to the councils; nor that the Indian members should be chosen by election. We will take each point in turn. The existing provincial executive councils have only three members each, two Europeans and one Indian. There would nowhere be sufficient work for six full-time members of an executive council and a governor. When a proportion of the executive government consists of Indian gentlemen who will ordinarily have no administrative experience it seems to us essential, especially if the governor lacks knowledge of India, that the European members of council should be versed in Indian administration. Forthcoming changes will tax both the tact and ability of the executive councils, and during the period of gradual change to responsible government we are not prepared to deprive them of the help of official experience. The intention of the scheme is that the European seats in the executive council should be filled by the appointment of public men from England. But it would be highly inexpedient that the European colleagues of the governor should be from the outset so largely dependent either on their secretaries or on their untrained Indian colleagues for information about Indian conditions; nor do we think that men with the high qualifications for which we ought to look would be willing to interrupt their career in England for a membership of a provincial executive council. The office carries no pension, nor does it offer either the amenities or the pay of a seat on the Governor General's Council. India will need in the future the finest type of public servant that she can get, and more will be demanded of her European officials than in the simpler conditions of the past. We have to take into account the effect upon the services of excluding them for such positions. It would indeed be short-sighted policy to preclude ourselves from employing them in the domain where especially during the transitional period, they will be of the very greatest usefulness. But the feature of the proposals regarding these councils to which we most decidedly demur is that the Indian members should be elected by the elected members of the legislative council. If the object is merely to find some means of ensuring that the Indian members of the Government enjoy the confidence of the legislative council we are in full sympathy with it, though we think that it can be attained by other means. We are aware that in the past the nominations made to

the executives have not always given satisfaction. There has been a disposition to regard the men appointed as chosen because they are safe and not likely to give Government trouble ; and, if legislature and executive are to work smoothly together, it is, we agree, necessary to make appointments which command confidence and ensure efficiency and ability. We feel sure, however, that to choose part of the Government by election is not a good method of obtaining this result. So far as we are aware there is no precedent on which we can base ourselves in the constitution of any country of importance. Election would deprive the governor of all discretion in making recommendations as to his colleagues ; and it would make it impossible to take steps to give all communities an opportunity of obtaining these appointments. Election is perhaps the best, though it is not the only, method of securing representation ; but when ability in administration ought, generally speaking to be the test, nomination by those who are in the best position to judge must be far more satisfactory than election, success in which largely depends on other qualities. Further, the scheme involves the association of individuals in the Government, who, while sharing in the same degree the same responsibilities, yet derive their authority from different sources, being responsible to the Secretary of State in the one case and the legislative council in the other ; and hence in the event of a divergence of view there is no easy way of securing the unity of action required.

The provincial legislative councils.

162. The provincial legislative council is the key to the strong position at present occupied by the provincial executive government. The Morley-Minto reforms have shown the Indian politician that the way to the citadel lies in mastering the out-works. The Congress-League scheme proposes that these councils should be enlarged so as to consist of not less than 125 members in major provinces and from 50 to 75 in minor provinces. The present numbers vary from 52 in Bengal to 19 in Burma. It intends that four-fifths of the members should be elected and one-fifth nominated, and that the franchise be widened and made direct. Without committing ourselves to approval of the particular proportions we agree with the principle of all these proposals. There is admittedly the strongest reason for making the present councils more representative, and this we propose to effect by enlarging them and by introducing a system of direct election on as wide a franchise as is possible, having regard to the materials at hand for the creation of an electorate. But our view decidedly is that the size of the councils cannot be determined *a priori*, but must depend on an examination and measure of the electorates. We consider that the time has come to grant substantial elected majorities but the exact size of the councils and the proportions which would suffice for the representation of the official view, and for the representation of important minority interests which cannot be represented by election, cannot be settled at present. These matters, as we explain in due course, need further study in detail.

163. Important minorities, it is proposed, should be represented by election. This appears to point to a system of reserved seats, but not of special electorates, which latter are specified only for Muhammadans, who are no longer to be allowed to vote in the general electorates as well as in their own special ones. We have elsewhere touched upon the difficulty of denying to certain other communities, such as the Sikhs in the Punjab, a concession which is granted to Muhammadans. The authors of the scheme have also agreed upon and set forth the proportions of the seats to be reserved for the special Muslim electorates in the various provinces. We are not aware on what basis, other than that of negotiation, the figures were arrived at. Separate electorates are proposed in all provinces even where Muhammadans are in a majority; and wherever they are numerically weak the proportion suggested is in excess of their numerical strength or their present representation. At the same time, nearly all the Muslim associations which addressed us urged upon us that it should be still further increased. Now a privileged position of this kind is open to the objection, that if any other community hereafter makes good a claim to separate representation, it can be satisfied only by deduction from the non-Muslim seats, or else by a rateable deduction from both Muslim and non-Muslim; and Hindu and Muslim opinions are not likely to agree which process should be adopted. While, therefore, for reasons that we explain subsequently we assent to the maintenance of separate representation for Muhammadans, we are bound to reserve our approval of the particular proposals set before us until we have ascertained what the effect upon other interests will be, and have made fair provision for them. We agree with the authors of the scheme that Muhammadans should not have votes both in their own special and in the general, electorates, and we welcome the Muslim League's assent to the revision in this respect of existing arrangements.

Minority representation.

164. The concession of special electorates and fixed ratios of representation for the Muslims is, however, reinforced by a further safeguard of a far more dubious nature. The proposal is that "no Bill, nor any clause thereof, nor a resolution introduced by a non-official affecting one or the other community (which question is to be determined by the members of that community in the legislative council concerned), shall be proceeded with if three-fourths of the members of that community in the particular council, Imperial or provincial, oppose the Bill, or any clause thereof, or the resolution". Such a provision measures the difficulty with which agreement between the communities was reached. The clause is so widely worded, and would in practice be so widely interpreted by those to whom its interpretation is specifically committed, that it would be unworkable. In a country like India it is impossible to say what proposals would not be capable of being represented as affecting communal interests; and even if such debatable measures were carried peaceably through the councils they would

Further safeguard for Muslim interests.

be still hopelessly open to persistent, and probably successful, attacks in the courts. Every law of general application affects Hindus and Muhammadans, and a literal interpretation of this provision would require that all Bills of a general nature should be passed by the specified majority of each community. We have no doubt, however, that what was intended was to protect the peculiar religious rights and customs of Hinduism and Islam. Even this is a far-reaching reservation, susceptible of very wide interpretation in a country like India where religion enters deeply into the daily affairs of life; but, so far as the law can afford such general protection, it has already done so in section 79 of the Government of India Act, 1915, which enacts that all laws affecting the religion or religious rites and usages of any community shall require the sanction of the Governor General before introduction; and we much prefer to rely upon this, or some similar, safeguard.

Financial powers.

165. These changes in the constitution of the councils which we have examined are important, but are not the vital element in the scheme. So far as the legislatures are concerned the really crucial proposals are those regarding the increased powers of the councils. In the sphere of finance it is proposed that provincial and Indian sources of revenue should be completely separated by abolishing the present division of certain heads of revenue and that the deficient resources of the Government of India should, in consequence, be supplemented by means of fixed contributions from the provinces. The provincial council should then have complete control over all provincial finance. All items of expenditure, and all proposals concerning ways and means for the raising of revenue, should be embodied in money Bills and submitted to the council for adoption. The council should also have power to raise loans and to impose and alter taxation. We have made it clear elsewhere that we consider the proposal to segregate provincial finance entirely sound. We fully accept the principle that the provinces should, in future, have wholly separate resources, and we are ourselves making certain suggestions with that end in view. The measure of the powers of borrowing and taxation that can safely be conceded to the provinces is a more difficult matter, but we believe that in both respects substantial advance upon the present system is possible. Where we next find ourselves at variance with the draftsmen of the scheme is in their claim to control completely the provincial finances. It may be that constitutional practice elsewhere has not been fully appreciated. In England it is a well-established rule that the Government only can propose fresh expenditure: no amendment can be moved to increase a grant or to alter its destination. Initiative lies with the Government. The House makes very little use of its undoubted power to reject or reduce the amounts asked for; it supervises, rather than directs, finance; and the utility of the debates on the estimates lies in securing publicity and criticism rather than in actually controlling expenditure. But we need hardly lay stress on matters of form when there is an objection of principle.

Finance is the vehicle of government; and unless the executive can raise money for its needs, and lay it out as it pleases, it cannot continue responsible for the administration. The power to refuse a vote, or to refuse to grant the resources required for it, paralyses the Government's hands. In the hands of a legislature, which practically chooses its own executive, such power is natural and appropriate. It affords a convenient, and very effective, means of making the Government conform to the wishes of the assembly. Supplies are not refused unless the assembly wishes to change the executive. But so long as the executive remains nominated and irremovable, it must be in a position to secure the money necessary for its essential purposes. The Congress-League proposal is compatible with parliamentary government, but fundamentally incompatible with an executive which retains any responsibility towards the Secretary of State and Parliament. In this respect therefore it is inconsistent with itself. We shall carefully examine later on within what limits it is possible to give the legislatures a voice in the disposal of provincial finance.

Legislative powers.

166. In the next place, it is proposed that the councils, with their substantial majority of elected members, should have power to legislate on all provincial subjects, subject to the Governor's veto. The idea is that an irremovable executive should continue responsible for the government of the country, even though it is no longer in a position to secure the legislation which it wants. In that this arrangement may at any moment deprive the Government of any power of effecting its will, it transfers the power from the Government to the elected body. The plan has attractions for many people. It is defended by those who think that legislation matters little compared with administration; or that a provincial Government will still retain great influence and be able to persuade the assembly, either by sheer reason or by means less creditable, to give it the laws which it wants; or that, failing to get such laws from its assembly, it will be able to get them from the Government of India; or that it can carry on without the laws it wants; and that it will be able to block objectionable legislation by using the veto. But it is also defended by those who point out that the combination of an irremovable executive and an elective assembly, alien as it is to English political ideas, is already found in successful operation elsewhere. Non-parliamentary executives flourish in the United States and Germany. But in America both the executive and legislature are ultimately responsible to the people, and in Germany the system appears to us only to be possible because military obedience rather than political instinct is the guiding principle of German political life.

Relations between executive and legislature.

167. We find then in these proposals no connecting rod between the executive and the legislative wheels of the machine which will ensure that they will work in unison. There are powerful factors working the other way in the differences of race and of political ideas. We

must anticipate divergence, and the only question is whether that divergence will be fatal to good government. Upon this point we defer to the experience of history, and we draw from it the plain conclusion that, if the government is to be carried on, legislature and executive must in essentials be in harmony. Legislation is a necessary attribute of Government because it is the means by which Government secures fresh powers when it feels the need of them for attaining its ends. But in the hands of the assembly it may become a weapon to paralyse the Government. Whenever the legislature distrusts the executive it can always restrain or control its activities by specific provisions inserted in an Act. There is no clear line between administrative and executive functions, and it would be perfectly open to an assembly which distrusted its executive practically to assume charge of the administration and, as Lord Bryce says,* to reduce its Government to the position of a bank staff *via à vis* the directors. That is a position into which no parliamentary government ever allows itself to be forced; and it would be an impossible position for a nominated Government of India. An executive which is independent for its legislature, as the Indian executives have hitherto been, can carry on the government in virtue of authority derived from without: a party executive can govern because it interprets the will of the people as represented by the assembly; but wherever, as in Canada or Malta, attempts have been made to set up an irremovable executive and a popular assembly, acute conflict has ensued and has resulted in either an advance to popular government or a return to autocracy. "Parliamentary government avoids dead-locks by making the executive responsible to the legislature. Presidential government limits deadlocks, because all the organs of the State must ultimately submit to a superior tribunal, the electorate of the nation. But a legislature elected by the people, coupled with a governor appointed by a distant power, is a contrivance for fomenting dissensions and making them perpetual." We believe that in India, where the two sides are divided by race, and also by differences of standpoint, the discord would be much more serious than it has ever been in the Empire's history. We can see no prospect whatever ahead, along the road which we are invited by the Congress-League to take, but embittered and dangerous deadlock; to be resolved, when it arose, only by a plunge forward into parliamentary government at once, or by reversion to autocratic methods.

Effect of resolutions.

168. The proposal that the executive Government should be bound to carry out the recommendations of legislative councils passed in the form of resolutions is another means by which Indian politicians naturally seek to direct the policy of Government, in the absence of parliamentary means of controlling it by the exercise of the right to change its personnel. This proposal is also embodied in the Congress-League scheme, together with the corollary that resolutions on all matters within the purview of the provincial

* *The American Commonwealth, chapter XXI.*

Government should be allowed for discussion in accordance with rules made by the council itself. But it is easier to understand the motive than to approve the means. In the first place, the method of attempting to control the executive by direct orders on points of detail appears to us to be wrong in principle. This way of conducting the public business was no doubt well known to the legislative assemblies in the old city-states. But it is inapplicable where a country is too large for the people to come together; and it has come to be generally regarded as inapplicable also in deliberative assemblies in modern countries where the business of government has grown complicated. The reasons are apparent. A deliberative body cannot suitably deal with details, because its constitution unfits it for such work. "Individually the members may express the most involved opinions, the most complex and divergent sentiments, but when it comes to voting, the body can only vote yes or no." It has to adopt or reject whatever propositions, original or amended, are laid before it. It can only proceed by formal rules, and it cannot arrive at its decision by quick interchange of views in conversation as a small executive body can. If proposals, once carried in the assembly, are to be effective, then their wise and accurate formulation becomes a matter of supreme importance; and no one but the authorities responsible for the administration has the knowledge to undertake this. Resolutions by the assembly should therefore be concerned with questions of policy or principle, and not with details. It is proper, for instance, that they should deal with the administration of the Arms Act, but not with its application to an individual; because for this latter purpose the machinery is clumsy, the knowledge is lacking, and the consumption of time and labour is disproportionate.

Proposals without a precedent

169. These, doubtless, are the reasons why it is not in accordance with modern English constitutional practice that resolutions of the assembly, as distinct from laws, should bind the executive. It is well known how ineffective private members' motions in the House of Commons often are. "There is nothing to prevent the House of Commons from adopting an address or resolution calling upon the Government for specific administrative action; and it has been occasionally, though not often, done." In theory such a resolution is an authoritative indication of the assembly's views to which the Government is bound to pay due heed; but for its enforcement there is no sanction other than the general powers of control enjoyed by the House; and in practice the Government decides whether the House intends the resolution to be taken seriously and is prepared to enforce it by any of the other means open to it of making its will felt. A resolution of the House of Commons of peculiar interest to India was the one approving of simultaneous examinations. It was transmitted to India as a matter still open to discussion; and when the Government was satisfied after inquiry that the resolution should not be carried out Parliament was content to acquiesce in their opinion. It needs no argument to show that the Commons' real control of the Government is exercised

in other ways—by the debate on the address; by questions; by motions to adjourn; by the budget debates; and by motions of no confidence. Sheer press of business, if no other reason, would forbid constant attempts to direct the administration in close detail. At the same time, there is another much stronger reason against any such attempt, in the settled feeling that those who know should be left to initiate, to frame their policy, to submit that policy to searching criticism, and to adopt such suggestions as they deem best; and that the House, when all is said and done, must either accept the Government's acts, or must change the Government. When the House of Commons chooses to make its resolutions effective it can always do so by withdrawing its confidence from the Government. With an irremovable executive there is no such sanction possible. Sanction would have to be provided in a court of law, which would in effect give a resolution the same value as a statute. We should in any case therefore hesitate to approve a proposal which has not to our knowledge been applied elsewhere, which it is difficult to find a method of enforcing, and which involves abrupt interference with the details of administration by a body that acts without due knowledge, is not charged with the duty of carrying out what it dictates, and cannot be held responsible for a wrong decision.

And fatal to good government.

170. But there is a stronger objection still. If we compel the executive to carry out instructions from the legislature we bring the Government to an end by destroying its right of action. No Government can consent to remain in office and to put into effect orders of which it disapproves. It could not do so whole-heartedly, and it could not accept responsibility to the public for actions forced upon it. If it is to be held responsible for government it must govern: and if it is not to govern it must give way to those who can. We have said that the whole history of constitutional development points to the need for harmony between the Government and the assembly. That remark had reference to the milder proposal, to give legislative control to the assembly while leaving the executive irremovable. But all that can be urged against creating a deadlock over legislation (which after all is only an intermittent function of government) applies with twofold force to the suggestion that the assembly should have power to take any detail of the administration at any moment out of the hands of those who are yet required to carry on the government.

The veto an illusory safeguard.

171. But we shall be told that the veto will save the situation; and we must examine this suggestion. The veto is not an instrument of government, and is tolerable only when it is rarely used and does not become obtrusive. But the suggestion before us is that the veto should be limited in effect to one year. We find it difficult to believe that a legislative body, having passed a resolution one year to which it attached importance, is likely to refuse to pass it again in the

next year ; and therefore those who invite us to make normal use of an instrument that is intended to be exceptional, suggest at the same time limitations which will destroy its efficacy. But, to waive the question of limitations, it seems to us that while the veto of the Governor is appropriate in the case of legislation, to which, according to constitutional theory, the Crown is a party, it is quite out of place in respect of resolutions. To apply it to them is to treat recommendations as something more than recommendations ; to lay down the anomalous proposition that a body which is normally bound by the wishes of another body should yet have the right to reject them. We fully appreciate the desire of Indian politicians that resolutions should be regarded as being an authoritative intimation of the wishes of the legislative council, and that Government should, so far as it thinks possible in the due discharge of its responsibility, give effect to them. This result can be attained by other and better means than by attempting to give legal validity to resolutions. It is really a matter of constitutional convention. The growth of such a convention has already begun ; and it will be fostered by the changes which we have to propose in the composition of both executive and legislature, and by the habits of co-operation which we hope will thereby be induced.

Proposals affecting the Government of India.

172. These are the main proposals which affect the provincial Governments. The suggestions with regard to the Indian Government follow much the same lines, nor need we examine them at length. As we shall show, we believe that we can advance further in the provincial sphere, but that for the present official authority must be effectually maintained in the Government of India. For this reason, while we are prepared to grant an elected majority in the Indian Legislative Council, we consider it necessary that that concession should be accompanied by the establishment of a second chamber, which will have the effect of securing to the Government in essential matters the final power of legislation. Similarly, while we cannot agree to the proposal that half the members of the Governor General's Council should be Indians, we are quite prepared to recommend that the Indian element in the present council should be enlarged. As regards the principles of election of members of the executive council, the suggested exclusion of members of any particular service by name and the relations of the Indian Legislative Council to the executive, which are the same as in the case of the provincial legislative councils, our position is that which we have explained already. Our objections to the proposals in relation to the provincial Governments apply with greater force in regard to the Government of India.

Criticism of the scheme as a whole.

173. We have not touched upon details of the scheme, which might be subject to adjustment if the main principles were accepted, because it is immaterial to discuss them if we cannot accept the vital features. Nor need we here deal with the proposals which concern the Secretary

of State in Council, or matters not directly bearing on constitutional changes. The former subject is dealt with elsewhere in our report. The latter is outside our immediate purview. We are, therefore, now in a position to sum up our views on the proposals as a whole. As we have shown, the essence of the project is an executive, theoretically responsible to the Secretary of State but practically divided, a legislature responsible to the electorate, and a distribution of power which enables the legislature to paralyse the executive without having power to remove it. Our first observation is that in our view such a plan postulates the existence of a competent electorate, and an assembly which will be truly representative of the people. We deal with the subject of electorates in another chapter and therefore need not stop here to examine the justification of this presupposition. We need only say that, while we believe that both a sound electoral system and truly representative assemblies will be evolved in time, we cannot assent to proposals which could only be justified on the assumption that such institutions are immediately forthcoming.

Of its theory.

174. Our second criticism, which is decisive with us, is that the Congress-League scheme starts with a wrong conception. It is unsound that the legislature and the executive should derive their power from, and be responsible to, different authorities. As one observer has put it :—" The executive has a mandate for good government from the Secretary of State and the British Parliament ; the legislature has *ex hypothesi* a mandate from the electorate ; the two mandates may not agree, and which is to yield ? " There would certainly be questions on which the mandates did not agree. If the executive attempted to overcome the legislature there would be conflict and agitation : if it gave way then it would become merely the agent of the legislature and might as well be chosen from, and by, the legislature at once. But for a deadlock the Congress-League scheme provides no solution, such as there would be in England, by means of a change of Government. If responsible government cannot be conceded at once, as indeed the scheme implies, and if some measure of responsibility is yet to be given, then means must be found of dividing the sphere of administration into two portions, and for each of these there must be a part of the executive which can, in the last resort, secure its way from a legislative organ which is in harmony with it : and there must also be means of securing that both halves of the machine work together.

As a means of education.

175. It has been put to us that though the system is not an ideal one it may serve as well as any other for the transitional stage before the introduction of a complete system of responsible government. We cannot subscribe to this view. Because the system is one of negative power, without responsibility, it affords the worst possible education for responsible government. That it would not train political leaders in the practical experience of administration is a sufficiently grave defect. But what is

far more serious is that the scheme makes no provision for an even greater need, the training of the people in the exercise of electoral responsibility. So long as the council has no direct responsibility for executing the policy which it advises the faculty of judging and choosing between different leaders cannot be called into play. The only result must be such increasing bitterness between a powerless, and yet irremovable, executive and the assembly, that when the change did come—and it would come with a crash—it would be made in the most unfavourable circumstances.

Unworkability in practice.

176. Apart from all questions of theory or historical examples we feel persuaded that the project would soon prove unworkable in practice. It proposes to concede to the popular assembly complete power of legislation and complete control of the budget. What will follow? We may judge from the tendencies displayed by the Morley-Minto councils. This is how the prospect strikes a liberal-minded and experienced administrator, who had made it his constant aim to work in harmony with his legislative council :—

"On an issue for or against the Government there will be a solid and permanent hostile majority. Now when such an issue arises what will be the results? Suppose the council wishes to promote technical schools for which the executive is advised that it cannot afford a proper staff or procure a suitable equipment. The executive argues and opposes, but is overruled. It then asks for funds, and suggests new taxation. The council refuses, and provides money by cutting down the police estimates. The executive again argues and opposes, pleading the needs of law and order, and is again overruled. The police suffer accordingly, and money is spent on schools which the executive believes to be merely eyewash. Suppose this sort of thing occurs not once, but again and again, until at last the executive is convinced that law and order has become impossible to maintain on the standard which the British Parliament would desire. It can only represent the situation to the Secretary of State and ask to be relieved of its responsibility for good government, or that the legislature be suspended or its powers curtailed. On the other hand, suppose the executive, on each such occasion when it considers the legislature to be seriously wrong, enforces its will by the veto, or by ordinance in place of Acts, what must ensue? Clearly, the legislature will find its position impossible : it will protest, cut off supplies, and finally refuse to carry on its share of the government. In either case there is a hopeless impasse ; and while it has been developing the country has been ablaze with agitation, which will make relations more bitter and public business more difficult when work begins again."

The negation of responsible government.

177. Such forebodings may be regarded as pessimistic. It may be said that if only reforms are carried out in the right spirit they can be made to work. If Government is sympathetic and broad-minded, if Indian leaders are sincere and public-spirited why should the scheme break down? Now these are exactly the conditions that we postulate for our own proposals, and we entirely agree that they are essential to the success of any transitional and intermediate constitution. Let us then try to make it clear why we believe that the Congress-League scheme is bound to fail. First, as we have said, we believe that the inherent defects of the machine would make it impossible to work at all.

But, granted that the Government does its utmost, granted that the Indian politicians have a sincere desire to make the engine work, we still cannot see how they could do so, because success itself would be the negation of their ultimate aim, and ours, which is responsible government. They could not remain content with an alien executive, and therefore their policy naturally, and from their standpoint justifiably, must be to weaken and discredit it. There is evidence indeed that some of the advocates of the scheme are impressed by the force of these arguments, and look forward to producing a deadlock as a means of bringing the executive under the control of the legislature. We have no desire to produce deadlocks. We have no wish to advance only by first making government impossible. On the contrary, we believe that the path of progress lies in another direction. We believe in the possibility of 'smooth and harmonious progress' pursued in a spirit of mutual goodwill and devotion to common interests. Our own proposals will show how we hope to start India on the road leading to responsible government with the prospect of winning her way to the ultimate goal, her progress hindered, it may be, at times by hills and rough places, but finding the road nowhere swept away by floods or landslides.

PART II

The Proposals

upon the work of past years. Unless we are right, in going forward now the whole of our past policy in India has been a mistake. We believe, however, that no other policy was either right or possible, and therefore we must now face its logical consequences. Indians must be enabled, in so far as they attain responsibility, to determine for themselves what they want done. The process will begin in local affairs which we have long since intended and promised to make over to them; the time has come for advance also in some subjects of provincial concern; and it will proceed to the complete control of provincial matters and thence, in the course of time, and subject to the proper discharge of Imperial responsibilities, to the control of matters concerning all India. We make it plain that such limitations on powers as we are now proposing are due only to the obvious fact that time is necessary in order to train both representatives and electorates for the work which we desire them to undertake; and that we offer Indians opportunities at short intervals to prove the progress they are making and to make good their claim not by the method of agitation, but by positive demonstration, to the further stages in self-government which we have just indicated.

Hopes for the future.

180. Further, we have every reason to hope that, as the result of this process, India's connexion with the Empire will be confirmed by the wishes of her people. The experience of a century of experiments within the Empire goes all in one direction. As power is given to the people of a province or of a dominion to manage their own local affairs, their attachment becomes the stronger to the Empire which comprehends them all in a common bond of union. The existence of national feeling, or the love of, and pride in, a national culture need not conflict with, and may indeed strengthen, the sense of membership in a wider commonwealth. The obstacles to a growth in India of this sense of partnership in the Empire are obvious enough. Differences of race, religion, past history, and civilization have to be overcome. But the Empire, which includes the French of Canada and the Dutch of South Africa—to go no further—cannot in any case be based on ties of race alone. It must depend on a common realization of the ends for which the Empire exists, the maintenance of peace and order over wide spaces of territory, the maintenance of freedom, and the development of the culture of each national unity of which the Empire is composed. These are aims which appeal to the imagination of India and, in proportion as self-government develops patriotism in India, we may hope to see the growth of a conscious feeling of organic unity with the Empire as a whole.

The education problem.

181. There is, however, one aspect of the general problem of political advance which is so important as to require notice in some detail. We have observed already that one of the greatest obstacles to India's political development lies not only in the lack of education among its peoples taken as a whole, but also in the uneven distribution of educational advance. The

educational policy of Government has incurred much criticism from different points of view. Government is charged with neglect, because after sixty years of educational effort only 6 per cent of the population is literate, while under 4 per cent of the total population is undergoing instruction. It is charged, on the other hand, with having fostered education on wrong lines, and having given to those classes which welcomed instruction a system which is divorced from their needs in being too purely literary, in admitting methods of unintelligent memorizing and of cramming, and in producing far in excess of the actual demands of Indian conditions, a body of educated young men whose training has prepared them only for Government service or the practice of the law. The system of university education on Western lines is represented as cutting off the students from the normal life of the country, and the want of connexion between primary education in the vernaculars and higher education in English is regarded as another radical defect.

Retrospect of education.

182. It is sometimes forgotten that the system of English education was not forced upon India by the Government, but established in response to a real and insistent demand, though a demand that proceeded from a limited class. The higher castes of Hindus—Brahmans, Kayasths, and a few others—have for generations supplied the administrative body of India, whatever the nationality of the rulers ; and the introduction and development of British rule inspired these classes to qualify themselves for a continuance, under the new conditions, of their hereditary careers. It was somewhat easily assumed in the time of Macaulay that Western education once imparted to the higher classes of India would gradually but steadily, permeate the whole population. In the event it has been distributed unevenly among the higher classes themselves, the Muhammadan community as a whole having until very recently been backward in taking advantage of educational facilities. Indeed some of the most difficult factors of the present situation would have been avoided if in good time steps had been taken to prevent the wide divorce which has occurred between the educated minority and the illiterate majority. From the economic point of view India has been handicapped by the want of professional and technical instruction ; her colleges turn out numbers of young men qualified for Government clerkships while the real interests of the country require, for example, doctors and engineers in excess of the existing supply. The charge that Government has produced a large *intellegentia* which cannot find employment has much substance in it ; it is one of the facts that lie at the root of recent political difficulties. But it is only of late years, and as part of the remarkable awakening of national self-consciousness, that the complaint has been heard that the system has failed to train Indians for practical work in manufactures, commerce, and the application of science to industrial life. The changing economic conditions of the country have brought this lesson home, and in its acceptance lies much of our hope for the future. But it must be remembered that many of the particular classes which eagerly sought higher education demanded also that it

should be of a literary character, and were hereditarily averse from, if not disdainful of, anything that savoured of manual toil; and also that when the universities of India were founded the idea of scientific and technological instruction had not dawned upon universities in England.

Defects of the system.

183. The failure of the Indian educational system to train the character has often been criticized, and with justice. In our desire, while imparting actual instruction, not to force the mind of India into an alien mould or to interfere with religious convictions, we have undoubtedly made education too purely a matter of the intellect, and, at any rate in the beginning, we failed to foresee how substantially the mental training that our schools and colleges afforded must come in time to modify the pupils' conceptions of life. Attempts towards direct moral training were always impeded by the desirability of avoiding the difficult and delicate domain of religious belief. But one of the most pressing needs of India is to foster more widely in the schools and colleges those ideas of duty and discipline, of common responsibilities and civic obligation, on which a healthy political life depends. Much effort is already being made in this direction, and there are notable and welcome signs of the growth among educated Indians of the conviction that the possession of education does not merely offer the individual opportunities of advancement, but should confer on him also the ability and the obligation to serve his country.

Social factors.

184. As regards the limited diffusion of education we also take into account the conservative prejudices of the country. It is not very long since the advocates of the higher education of women in Europe were regarded as unpractical and subversive theorists; and in India social customs have greatly multiplied the difficulties in the way of female education. Upon this question opinion is slowly, but surely, changing, and educated young men of the middle classes are beginning to look for literate wives. But so long as education is practically confined to one sex the social complexion of the country must react upon and retard political progress; and for this reason we regard the great gulf between men and women in respect of education as one of the most serious problems which has to be faced in India.

Attitude of the ryot.

185. The spread of education among the lower classes is also attended by peculiar difficulties. India is a predominantly agricultural country, and an agricultural population is always and everywhere suspicious of the effect of education upon rural children. Here again is the need—a need realized equally in Europe and America—of making rural education more practical, and ensuring that the school shall make the average boy who does not aspire to university education a more practical farmer instead of transforming him into an indifferent clerk. In India primary education has been entrusted mainly to the district boards and municipalities, and

it has, we are glad to say, made fairly steady, if slow, progress under their administration. The first effect of English education upon the classes which adopted it was to widen the gulf between them and the conservative masses. But one of the most marked features of recent political development is the concern shown by the spokesmen of the educated classes for the diffusion of primary education among the people as a whole. The history of other countries shows that the growth of a desire for education among the peasantry and working classes is generally slow, while political and economic conditions remain static, and that the quickening influences come mainly from the better educated sections of the community which are more sensitive to political and economic changes. Political thought in India is coming to recognize that advance must be influenced by the general educational level of the country, and that political leaders, if they are to escape the charge of representing only the interests of the classes to which they themselves belong, must be able to appeal to, and be understood by, the masses of their fellow-countrymen. This conviction involves steady effort to raise the status of the depressed classes.

Chief needs at present.

186. Primary education, as we have seen, is already practically in the hands of local bodies, but secondary education was deliberately left at the outset almost entirely to private agencies. The universities, despite their connexion with Government, are largely non-official bodies with extensive powers. The main defect of the system is probably the want of co-ordination between primary and higher education, which in turn reacts upon the efficiency of secondary institutions and to a great extent confines university colleges to the unsatisfactory function of mere finishing schools. The universities have suffered from having been allowed to drift into the position of institutions that are expected not so much to educate in the true sense, as to provide the student with the means of entering an official or a professional career. Thus a high percentage of failures seems to a large body of Indian opinion not so much a proof of the faultiness of the methods of teaching, as an example of an almost capricious refusal of the means of obtaining a living wage to boys who have worked for years, often at the cost of real hardship, to secure an independent livelihood. The educational wastage is everywhere excessive; and analysis shows that it is largely due to underpayment and want of proper training in the case of teachers. The actual recruits for normal schools are too often ill-prepared, and the teaching career, which in India used formerly to command respect, does not now offer adequate inducements to men of ability and force of character. The first need therefore is the improvement of teaching. Until that is attained it is vain to expect that the continuation of studies from the primary stage can be made attractive. But while the improvement of primary and middle schools is the first step to be taken, very much remains to be done in reorganizing the secondary teachers and ensuring for the schoolmaster a career that will satisfy an intelligent man. The improvement of ordinary secondary education is obviously a necessary condition for the

development of technical instruction and the reform of the university system. It is clear that there is much scope for an efficient and highly trained inspectorate in stimulating the work of the secondary schools, and in helping the inspectorate of the primary schools maintained by the local bodies. We believe that the best minds in India, while they feel that the educational service has not in the past been widely enough opened to Indians trained at British universities, value the maintenance of a close connexion with educationists from the United Kingdom.

Political importance of education.

187. This survey of educational problems will show how much room there is for advance and improvement, and also how real the difficulties are. The defects of the present system have often been discussed in the legislative councils but, as was inevitable so long as the councils had no responsibility, without due appreciation of financial difficulties, or serious consideration of the question how far fresh taxation for educational improvement would be acceptable. As we shall show, it is part of the political advance that we contemplate that the direction of Indian education should be increasingly transferred to Indian hands. Only so, we believe, can the stimulus be forthcoming which will enable the necessary money to be found. The weak points are recognized. A real desire for improvement exists. Educational extension and reform must inevitably play an important part in the political progress of the country. We have already made clear our conviction that political capacity can come only through the exercise of political responsibility; and that mere education without opportunities must result in serious mischiefs. But there is another important element. Progress must depend on the growth of electorates and the intelligent exercise of their powers; and men will be immensely helped to become competent electors by acquiring such education as will enable them to judge of candidates for their votes, and of the business done in the councils. No one would propose to prescribe an educational qualification for the vote; but no one can deny the practical difficulties which make a very general extension of the franchise impossible until literacy is far more widely spread than is the case at present. The Government of India has for some time past been maturing plans for a great extension of primary education. Progress was temporarily interrupted by uncertainty as to the distribution of financial resources which would result from the constitutional changes; but the imminence of these has given a new importance to the question and its consideration has been resumed. We trust that impetus will thus be given to a widespread movement which will be taken up and carried forward boldly by the reformed councils.

Extent of the advance proposed in local bodies.

188. Let us now consider the principles on which our proposals are based. We have surveyed the existing position; we have discussed the conditions of the problem; and the goal to which we wish to move is clear. What course are we to set across the intervening space? It follows from our premises, and it is also recognized in the

announcement of August 20, that the steps are to be gradual and the advance tested at each stage. Consistently with these requirements a substantial step is to be taken at once. If our reasoning is sound this can be done only by giving from the outset some measure of responsibility to representatives chosen by an electorate. There are obviously three levels at which it is possible to give it—in the sphere of local bodies, in the provinces, and in the Government of India. Of certain other levels which have been suggested, intermediate between the first and second of these, we shall speak in due course. Also, since no man can serve two masters, in proportion as control by an electorate is admitted at each level, control by superior authority must be simultaneously relaxed. If our plans are to be soundly laid, they must take account of actual conditions. It follows that the process cannot go on at one and the same pace on all levels. The Secretary of State's relaxation of control over the Government of India will be retarded, if for no other reason, by the paramount need for securing Imperial interests; the Government of India have the fundamental duty to discharge of maintaining India's defence; the basic obligation of provincial Governments is to secure law and order. As we go upwards the importance of the retarding factors increases; and it follows that popular growth must be more rapid and extensive in the lower levels than in the higher. Let us state the proposition in another way. The functions of government can be arranged in an ascending scale of urgency, ranging from those which concern the comfort and well-being of the individual to those which secure the existence of the State. The individual understands best the matters which concern him, and of which he has experience; and he is likely to handle best the things which he best understands. Our predecessors perceived this before us, and placed such matters to some extent under popular control. Our aim should be to bring them entirely under such control. This brings us to our first formula :—

"*There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control*" (*1*).

In provincial Governments.

189. When we come to the provincial Governments the position is different. Our objective is the realization of responsible Government. We understand this to mean first, that the members of the executive Government should be responsible to, because capable of being changed by, their constituents; and, secondly, that these constituents should exercise their power through the agency of their representatives in the assembly. These two conditions imply in their completeness that there exist constituencies based on a franchise broad enough to represent the interests of the general population, and capable of exercising an intelligent choice in the selection of their representatives; and, secondarily, that it is recognized as the constitutional practice that the executive Government retains office only so long as it commands the support of a majority

in the assembly. But in India these conditions are as yet wanting. The provincial areas and interests involved are immense, indeed are on what would elsewhere be regarded as a national scale. The amount of administrative experience available is small; electoral experience is almost entirely lacking. There must be a period of political education, which can only be achieved through the gradual, but expanding, exercise of responsibility. The considerations of which we took account in chapter VI forbid us immediately to hand over complete responsibility. We must proceed therefore by transferring responsibility for certain functions of government while reserving control over others. From this starting point we look for a steady approach to the transfer of complete responsibility. We may put our second formula thus :—

"*The provinces are the domain in which the earlier steps towards the progressive realization of responsible government should be taken. Some measure of responsibility should be given at once, and our aim is to give complete responsibility as soon as conditions permit. This involves at once giving the provinces the largest measure of independence, legislative, administrative and financial, of the Government of India which is compatible with the due discharge by the latter of its own responsibilities*" (*2*).

In the Government of India.

190. But, as we shall see, any attempt to establish equilibrium between the official and popular forces in government inevitably introduces additional complexity into the administration. For such hybrid arrangements precedents are wanting; their working must be experimental, and will depend on factors that are yet largely unknown. We are not prepared, without experience of their results, to effect like changes in the Government of India. Nevertheless, it is desirable to make the Indian Legislative Council more truly representative of Indian opinion and to give that opinion greater opportunities of acting on the Government. While, therefore, we cannot commend to Parliament a similar and simultaneous advance, both in the provinces and in the Government of India, we are led to the following proposition :—

"*The Government of India must remain wholly responsible to Parliament, and saving such responsibility, its authority in essential matters must remain indisputable, pending experience of the effect of the changes now to be introduced in the provinces. In the meantime the Indian Legislative Council should be enlarged and made more representative and its opportunities of influencing Government increased*" (*3*).

In England.

191. Further, the partial control of the executive in the provinces by the legislature, and the increasing influence of the legislature upon the executive in the Government of India, will make it necessary that the superior control over all Governments in India which is now exercised by the authorities at Home must be in corresponding measure abated; for otherwise the

executive Governments in India will be subjected to pressure from different sources which will wholly paralyse their liberty of action, and also the different pressures may be exercised in opposite directions. We may put this proposition briefly as follows :—

"*In proportion as the foregoing changes take effect, the control of Parliament and the Secretary of State over the Government of India and provincial Governments must be relaxed*" (*4*).

Local self-government.

192. We have been told that, inasmuch as local self-government has not yet been made a reality in most parts of India, we should content ourselves with such reforms as will give it reality, and should await their result before attempting anything more ambitious, on the principle that children learn to walk by learning first to crawl. We regard this solution as outside the range of practical politics ; for it is in the councils that the Morley-Minto reforms have already brought matters to an issue ; and Indian hopes and aspirations have been aroused to such a pitch that it is idle to imagine that they will now be appeased by merely making over to them the management of urban and rural boards. Moreover, the development of the country has reached a stage at which the conditions justify an advance in the wider sphere of government, and at which indeed government without the co-operation of the people will become increasingly difficult. On the other hand, few of the political associations that addressed us seemed adequately to appreciate the importance of local affairs, or the magnitude of the advance which our recommendation involves. But the point has been made time and time again by their own most prominent leaders. It is by taking part in the management of local affairs that aptitude for handling the problems of government will most readily be acquired. This applies to those who administer, but even more to those who judge of the administration. Among the clever men who come to the front in provincial politics, there will be some who will address themselves without more difficulty, and indeed with more interest and zeal, to the problems of government than to those of municipal or district board administration. But the unskilled elector, who has hitherto concerned himself neither with one nor the other, can learn to judge of things afar off only by accustoming himself to judge first of things near at hand. This is why it is of the utmost importance to the constitutional progress of the country that every effort should be made in local bodies to extend the franchise, to arouse interest in elections, and to develop local committees, so that education in citizenship may, as far as possible, be extended, and everywhere begin in a practical manner. If our proposals for changes on the higher levels are to be a success, there must be no hesitation or paltering about changes in local bodies. Responsible institutions will not be stably-rooted until they become broad-based ; and far-sighted Indian politicians will find no field into which their energies can be more profitably thrown than in developing the boroughs and communes of their country.

193. These reasons led Lord Chelmsford's Government in May 1916 to consider what further progress along the road local self-government was immediately possible. Their conclusions would have been published some time ago if it had been possible to separate the consideration of this subject from that of constitutional reforms in general. We have the proposals before us, and will summarize the general purport of them.

The Government of India's proposals.

194. At present rather more than half the members of municipal, and rather less than half of those of rural, boards, including in this term sub-district boards, are elected. The intention is that substantial elected majorities should be conceded in boards of both kinds and that the system of nomination should be retained only in order to secure the necessary representation of minorities, and the presence of a few officials as expert advisers without a vote. Generally the suggestion is that the proportion of nominated members should not exceed one-fourth. The enlargement of the elected element must necessarily be accompanied by the adoption of a sufficiently low franchise to obtain constituencies which will be really representative of the general body of rate-payers. It should also be followed by an extension of the system of elected chairmen. The Decentralization Commission thought that municipal chairmen should ordinarily be elected non-officials, and that if a nominated chairman was required an official should be selected. It is hoped, however, that the election of chairmen will be the general rule in future. If there are special reasons against the election of a non-official chairman an official might be elected, provided he is elected by a majority of the non-official votes. In some provinces this is already the ordinary practice for municipalities. For the administration of large cities it is proposed to approve of the system in which the every-day executive work is carried out by a special nominated commissioner; but not to require that he should be an official, provided that he is protected by a provision that he should only be removable with the sanction of Government or by the vote of a substantial majority of the board. In the case of rural boards local Governments will be urged to appoint non-official and preferably elected chairmen wherever possible, but where there is a non-official chairman there may be need also for a special executive officer, whose appointment and removal would require the Government's sanction, to do the ordinary official work. If any board desired to elect an official chairman his election should be by a majority of non-official votes and should be approved by the Commissioner or some higher authority.

Constitution of local boards.

195. The Decentralization Commission recommended that municipalities should have full liberty to impose and alter taxation within the limits laid down by law, but that where the law prescribes no maximum rate the sanction of an outside authority should be required to any increase. It is hoped that nearly all boards will contain substantial elected majorities, and

Powers of local boards.

in their case it is proposed to accept the Commission's recommendation, though indebted boards should still obtain the sanction of higher authority before altering a tax. It is clearly important that municipal boards should have such power to vary taxation, and the intention is to give it to rural boards as well by allowing them to levy rates and fees within the limits of the existing Acts. It is thought that wherever a board pays for a service, it should control such service; and that where it is expedient that control should be largely centred in the hands of the Government, the service should be a provincial one. If, for example, a board provides for civil works or medical relief, it ought, subject to such general principles as the Government may prescribe, to have real control over the funds which it provides, and not be subject to the constant dictation, in matters of detail, of Government departments. Similarly as regards the control over the budgets of local bodies. It is hoped that provincial Governments will make every effort to give boards a free hand with their budgets, subject to the maintenance of a minimum standing balance, with the necessary reservations in the case of indebtedness or against gross default. The Government of India would discard the system of requiring local bodies to devote fixed portions of their revenues to particular objects of expenditure and would rely on retaining powers of intervention from outside in cases of grave neglect or disregard. Municipalities have already been given enlarged powers in respect of new works; and a similar advance is hoped for in the case of rural boards. As regards the control by Government over the establishment of local bodies, the Commission proposed that the appointment of certain special officers should require the sanction of higher authority, while other appointments would be regulated by general rules laid down by the provincial Government. It is hoped that provincial Governments will now take steps to carry these recommendations into practice, but it is suggested that Government should in the case of the special officers also retain a right to require their dismissal in cases of proved incompetency. Such material relaxation of Government control in respect of taxation, budgets, public works, and local establishments might suggest that the exceptional powers of Government officers in respect of external intervention should, if altered at all, be altered in the direction of greater stringency. But the accepted policy must be to allow the boards to profit by their own mistakes, and to interfere only in cases of grave mismanagement; and, therefore, with certain possible exceptions, which we need not here specify, it is not proposed to extend the power of intervention.

Panchayats.

196. Finally, the Government of India propose to direct attention to the development of the *panchayat* system in villages. This question was examined by the Decentralization Commission and has since been the subject of further inquiry in the United Provinces and Assam. It is recognized that the prospect of successfully developing *panchayats* must depend very largely on local conditions, and that the functions and powers to be allotted to them must vary accordingly; but where the system

proves a success it is contemplated that they might be endowed with civil and criminal jurisdiction in petty cases, some administrative powers as regards sanitation and education, and permissive powers of imposing a local rate. It is hoped that, wherever possible, an effective beginning will be made.

Comments on this programme.

197. The programme which we have thus summarized is still under consideration and, obviously, it would not be suitable for us to comment upon it. It is clear that it cannot be regarded as constituting a complete scheme of local self-government, and for two reasons. It is impossible to ignore the past and at once to create a perfect scheme out of the present uneven materials; and, secondly, if we are sincere in our advocacy of a policy of provincial autonomy, we must leave the work mainly to local Governments. It would be highly inconsistent to insist on provincial autonomy, and simultaneously to leave no latitude of action to provincial Governments in a field which is so peculiarly a matter for local development. But the proposals will constitute a basis on which those entrusted with the responsibility for such matters in future can build; and we expect the reformed legislative councils to carry forward the work thus begun. We may add that the reformed and representative district boards of the future could, and should, be utilized by the district officer for purposes of advice and consultation.

Scope of following proposals.

198. Because we believe that our main advance must be on the provincial stage, we shall leave the subject of local self-government at this point, and turn to the provinces. But here we must pause for a moment to define the scope of all the proposals that follow in chapter VIII. It is a truism that no general proposals can be equally applicable to all portions of India at one and the same time. If, however, we had not contented ourselves with the sufficiently weighty task of working out in broad outlines the plan of one of the greatest political experiments ever undertaken in the world's history, but had set ourselves also to adjust its details to the varying requirements of the different provinces, our labours would have been immensely prolonged and there would have been a danger that the details of our report might obscure its main intentions. Because we have written in general terms we would not have it supposed that we have been unmindful of inequalities in the development of the provinces. For these we have, as we shall show, provided a mechanism of adjustment. But over and above that we must offer one word of explanation at the outset. Our recommendations as to the provinces are confined to eight out of the nine provinces of British India which are furnished with legislative councils. These are Madras, Bombay, Bengal, the United Provinces, Bihar and Orissa, the Punjab, the Central Provinces, and Assam. We have not included Burma in our survey except in so far as, while that province remains part of the Indian polity, as for military reasons it must, it is necessary to provide for its representation in the central Government. Our reasons ar

that Burma is not India. Its people belong to another race in another stage of political development, and its problems are altogether different. For instance, the application to Burma of the general principles of throwing open the public service more widely to Indians would only mean the replacement of one alien bureaucracy by another. The desire for elective institutions has not developed in Burma; the provincial legislative council, as constituted under the Morley-Minto schemes, has no Burma-elected element; and the way is open for a different line of development. There was also a practical reason for not proceeding to investigate the particular conditions of Burma in the fact that one Lieutenant-Governor had very recently laid down, and a new Lieutenant-Governor assumed office. When our proposals are published there will be an opportunity for the Government and people of Burma to say how far they regard them as applicable to their case. We therefore set aside the problem of Burma's political evolution for separate and future consideration. There remain the frontier areas of the North-West Frontier Province and Baluchistan, and the smaller tracts of British India, like Delhi, Coorg, and Ajmer-Merwara. For reasons of strategy the two frontier provinces must remain entirely in the hands of the Government of India. But, inasmuch as our guiding principle, where the principle of responsibility cannot yet be applied, is that of government by consultation with the representatives of the people, we think that in some, if not all, of these areas it would be well to associate with the personal administration of the Chief Commissioner some form of advisory council, adjusted in composition and function to local conditions in each case. This question we would leave to the further consideration of the Government of India.

Treatment of backward tracts.

199. But even in the eight provinces which we have named are included certain backward areas where the people are primitive, and there is as yet no material on which to found political institutions. We do not think there will be any difficulty in demarcating them. They are generally the tracts mentioned in the schedules and appendices to the Scheduled Districts Act, 1874, with certain exceptions, and possibly certain additions, which the Government of India must be invited to specify. Both the definition of these areas and the arrangements to be made for them will be matters for further consideration; but the typically backward tracts should be excluded from the jurisdiction of the reformed provincial Governments and administered by the head of the province.

Chapter VIII.—The Provinces.

DEVOLUTION TO PROVINCIAL GOVERNMENTS.

Financial devolution.

200. We saw in chapter V that there was not a little spade-work to be done before the way lay open for reconstruction to begin. Above all we saw that the existing financial relations between the central and provincial Governments must be changed if the popular principle in government is to have fair play in the provinces. The present settlements by which the Indian and provincial Governments share the proceeds of certain heads of revenues are based primarily on the estimated needs of the provinces, and the Government of India disposes of the surplus. This system necessarily involves control and interference by the Indian Government in provincial matters. An arrangement which has on the whole worked successfully between two official Governments would be quite impossible between a popular and an official Government. Our first aim has therefore been to find some means of entirely separating the resources of the central and provincial Governments.

A new basis.

201. We start with a change of standpoint. If provincial autonomy is to mean anything real clearly the provinces must not be dependent on the Indian Government for the means of provincial development. Existing settlements do indeed provide for ordinary growth of expenditure, but for any large and costly innovations provincial Governments depend on doles out of the Indian surplus. Our idea is that an estimate should first be made of the scale of expenditure required for the upkeep and development of the services which clearly appertain to the Indian sphere; that resources with which to meet this expenditure should be secured to the Indian Government; and that all other revenues should then be handed over to the provincial Governments, which will thenceforth be held wholly responsible for the development of all provincial services. This, however, merely means that the existing resources will be distributed on a different basis, and does not get over the difficulty of giving to the central and provincial Governments entirely separate resources. Let us see how this is to be done.

Complete separation of revenues.

202. Almost everyone is agreed that a complete separation is in theory desirable. Such differences of opinion as we have met with have mostly been confined to the possibility of effecting it in practice. It has been argued for instance that it would be unwise to narrow the basis on which both the central and provincial fiscal systems are based. Some of the revenues in India, and in particular land revenue and excise, have an element of precariousness; and the system of divided heads, with all its drawbacks, has the undeniable advantage that it spreads the risks. This objection

will, however, be met if, as we claim, our proposed distribution gives both the Indian and provincial Governments a sufficient measure of security. Again we have been told that the complete segregation of the Government of India in financial matters will lower its authority. This argument applies to the whole subject of decentralization and provincial autonomy. It is not necessary for us to meet it further. Our whole scheme must be even and well-balanced, and it would be ridiculous to introduce wide measures of administrative and legislative devolution and at the same time to retain a centralized system of finance.

Abolition of divided heads.

203. There are two main difficulties about complete separation. How are we to dispose of the two most important heads which are at present divided —land-revenue and income-tax—and how are we to supplement the yield of the Indian heads of revenue in order to make good the needs of the central Government? At present the heads which are divided in all or some of the provinces are:—land revenue, stamps, excise, income-tax and irrigation. About stamps and excise there is no trouble. We intend that the revenue from stamp duty should be discriminated under the already well-marked sub-heads *General* and *Judicial*; and that the former should be made an Indian and the latter a provincial receipt. This arrangement will preserve uniformity in the case of commercial stamps where it is obviously desirable to avoid discrepancies of rates; and it will also give the provinces a free hand in dealing with Court-fee stamps, and thus provide them with an additional means of augmenting their resources. Excise is at present entirely a provincial head in Bombay, Bengal, and Assam, and we see no valid reason why it should not now be made provincial throughout India. At this stage the difficulties begin. Land revenue, which is by far the biggest head of all, is at present equally shared between the Indian and all the provincial Governments, except that Burma gets rather more than one-half and the United Provinces get rather less. Now land revenue assessment and collection is so intimately concerned with the whole administration in rural areas that the advantages of making it a provincial receipt are obvious. But other considerations have to be taken into account. One substantial difficulty is that, if land revenue is made entirely provincial, the Government of India will be faced with a deficit and its resources must be supplemented by the provinces in some form or other. Moreover, famine expenditure and expenditure on major irrigation works are for obvious reasons closely connected with land revenue, and if the receipts from that head are made provincial it logically follows that the provinces should take over the very heavy liability for famine relief and protective works. An argument of quite another character was also put forward. We were told that in the days of dawning popular government in the provinces it would be well that the provincial Government should be able to fall back on the support of the Government of India (as, if the head were still divided, it would be able to do) when its land-revenue policy was attacked. But it is just

because divided heads are not regarded as merely a financial expedient but are, and so long as they survive will be, viewed as a means of going behind the provincial Government to the Government of India, that we feel sure that they should be abolished. We propose, therefore, to make land revenue, together with irrigation, wholly provincial receipts. It follows that the provinces will become entirely liable for expenditure on famine relief and protective irrigation works. We shall explain shortly what arrangements we propose for financing famine expenditure. The one remaining head is income-tax. We see two very strong reasons for making this an Indian receipt. First, there is the necessity of maintaining a uniform rate throughout the country. The inconveniences, particularly to the commercial world, of having different rates in different provinces are manifest. Secondly in the case of ramifying enterprises with their business centre in some big city, the province in which the tax is paid is not necessarily the province in which the income was earned. We have indeed been told that income-tax is merely the industrial or professional complement of the land revenue; and that to provincialize the latter, while Indianizing the former, means giving those provinces whose wealth is more predominantly agricultural, such as the United Provinces and Madras, an initial advantage over a province like Bombay, which has very large commercial and industrial interests. Another very practical argument is that the tax is collected by provincial agency, and that if provincial Governments are given no inducement, such as a share of the receipts or a commission on the collections which is only such a share in disguise, there will be a tendency to slackness in collection and a consequent falling off in receipts. We admit that these arguments have force; but we are not prepared to let them stand in the way of a complete separation of resources. Equality of treatment as between one province and another must be reached so far as it is possible in the settlements as a whole, and it is not possible to extend the principle of equality to individual heads of revenue. If it should be found that receipts fall off it may be necessary to create an all-Indian agency for the collection of the tax, but this we should clearly prefer to retaining it as a divided head. To sum up: we propose to retain the Indian and provincial heads as at present, but to add to the former income-tax and general stamps, and to the latter land revenue, irrigation, excise, and judicial stamps. No heads will then remain divided.

Famine expenditure.

204. For the purposes of famine relief we propose that the provincial settlements should make allowances based on each province's average liability to this calamity in the past; and it will be the duty of provincial Governments liable to famine not to dissipate this special provision, but to hold a sufficient portion of their resources in reserve against the lean years. In years when there is no scarcity a province should not spend its famine assignment on ordinary purposes, but should either add it to its balances or spend it on some defensive purpose directed to diminishing the cost of famine when it comes. We

recognize that difficulties may arise because provincial Governments may fail to make sufficient provision, or because a severe famine may come upon them before they have had time to accumulate a sufficient provision with which to meet it. In such cases the Indian Government could never renounce responsibility. But we are glad to believe that the liabilities arising out of famine relief will tend to be smaller in the future than in the past, owing to the improvement of protective measures and also to the increasing recuperative power of the people to which all experience of recent famines points. Provincial Governments have at present large balances on which they could draw in the first instance if heavy famine expenditure became necessary. If it were still necessary for the Government of India to intervene its assistance should, we think, take the form of a loan, which the provincial Government would be liable to repay; or if the amount so advanced were so large that it could not be repaid within a reasonable time without grave embarrassment, the whole, or a portion, of it should be regarded as a permanent loan on which the provincial Government would pay interest.

Need for meeting the resultant deficit in the Indian budget.

205. When all sources of revenue have been completely distributed as we propose there will be a large deficit in the Government of India's budget. One way of meeting it would be to maintain the basis of the present settlements, but to allot to the Government of India a certain proportion of growing revenue instead of its share of the divided heads. But this device would stereotype all the existing inequalities between the provinces which by reason of the permanent settlement in some of them are considerable; while it would also introduce an element of great uncertainty into the Indian Government's finance. A second suggestion was that we should take an all-round contribution on a *per capita* basis. But this expedient also would not obviate very undesirable variations between provinces in the rate of levy owing to the inequality of provincial resources and of provincial needs. A third plan was to take an all-round percentage contribution based on gross provincial revenue. This is open, *inter alia,* to the objection that it would leave several of the provinces with large deficits. Fourthly, we considered, but rejected, the proposal that provinces which had a surplus should temporarily help others as being cumbrous and impracticable.

The means of so doing.

206. From our examination of these proposals we came to certain broad conclusions. We agreed that in fixing contributions it was undesirable and unnecessary to pay regard to the growing revenues of the provinces. We agreed also that the contributions should be of fixed amounts. We saw that equality of contribution was impracticable, because we have not a clean slate. In spite of the variations in income which result from the permanent settlement in some areas, stereotyped scales of expenditure have grown up, which makes it useless to attempt any theoretic calculation on which a uniform contribution from the provinces could be based, such as an equal percentage of

revenues or a contribution fixed on a population basis. This led us to look for some plan which would fit more closely into the existing facts.

Starting with an estimate (based on the budget figures for 1917-18, subject to some adjustments) of the gross revenue of all provinces when all divided heads have been abolished, and deducting therefrom an estimate of the normal expenditure of all provinces, including provision for expenditure on famine relief and protective irrigation, we arrived at ₨1,564 lakhs as the gross provincial surplus. The deficit in the Government of India's budget was ₨1,363 lakhs. This left ₨201 lakhs, or about 13 per cent, of the total gross surplus as the net surplus available to the provinces. We would propose to assess the contribution from each province to the Government of India as a percentage of the difference between the gross provincial revenue and the gross provincial expenditure. On the basis of the figures which we have taken this percentage would be 87. The contributions to the Government of India would form the first charge upon the provincial revenues. The way in which our plan would work out in practice can be gathered from the following figures:—

[In lakhs of rupees.]

Province.	Gross provincial revenue.	Gross provincial expenditure	Gross provincial surplus.	Contribution (87 per cent of col. 4).	Net provincial surplus.
1	2	3	4	5	6
Madras	13,31	8,40	4,91	4,28	63
Bombay	10,01	9,00	1,01	88	13
Bengal	7,54	6,75	79	69	10
United Provinces	11,22	7,47	3,75	3,27	48
Punjab	8,64	6,14	2,50	2,18	32
Burma	7,69	6,08	1,61	1,40	21
Bihar and Orissa	4,04	3,59	45	39	6
Central Provinces	4,12	3,71	41	36	5
Assam	1,71	1,50	21	18	3
TOTAL	68,28	52,64	15,64	13,63	2,01

N.B.—The Punjab figures in column 5 should be reduced and those in column 6 raised by 3½ lakhs in each case to allow for the continued compensation which the province is entitled to receive for the cession of a crore of its balances to the Government of India in 1914.

We recognize, of course, that the objection will be taken that some provinces even under this plan will bear a very much heavier proportion of the cost of the Indian Government than others. Madras and the United Provinces will be paying 47·4 per cent and 41·1 per cent of their remaining revenues to the Government of India, while Bengal and Bombay are paying only 10·1 per cent and

9·6 per cent, respectively. Our answer is that the objection is one that applies to existing inequalities which we admit that our scheme fails for the present to remove. It merely continues the disparity which is at present masked by the system of divided heads. But the immediate settlement proposed improves the position of the provinces as a whole by upwards of one million sterling. It is not intended to be of a final nature; and when revenues develop and a revision takes place under normal conditions an opportunity will arise for smoothing out inequalities. We have already mentioned at the beginning of this part of our report that our proposals generally do not relate to the minor administrations. Their financial transactions are classified as all-Indian; and with them separate arrangements must continue.

The possible need for revision.

207. The Government of India have already put matters in train by consulting provincial Governments on these proposals. It may be added that when details come to be worked out we may find it convenient to take some later figures as the basis of the settlement, and that the replies of local Governments will also necessitate some revision; but we hope that the general scheme which we have outlined may be accepted. Our intention is that the new arrangements should take effect from whatever date is fixed in the statute for the installation of the new constitutional machinery. One caveat we are bound to make. Emergencies may arise which cannot be provided for by immediately raising Government of India taxation; and in that case it must be open to the central Government to make a special supplementary levy upon the provinces. We must add that inasmuch as our proposals are based on war figures they should be open to revision hereafter, but not subject to change for a period of say six years; and to avoid intermediate discussions the scheme should in the meantime be regarded as part of the constitutional arrangement with the provinces. It should also be one of the duties of the periodic commission which we propose should be appointed to examine the development of constitutional changes after ten years' experience of their working or of some similar body at that time, to reinvestigate the question of the provincial contributions to the Government of India. We have, for the present, accepted the inequality of burden which history imposes on the provinces, because we cannot break violently with traditional standards of expenditure, or subject the permanently settled provinces to financial pressure which would have the practical result of forcing them to reconsider the permanent settlement. But it is reasonable to expect that with the growth of provincial autonomy any inequality of burdens will be resented more strongly by the provinces on whom it falls; and it will be for the first periodic commission and for its successors after review of the situation then existing to determine whether some period should not be set by which the more lightly burdened provinces should be expected to find means of bringing up their financial resources to the common level of strength. We attach great weight to the proposition that if the provinces are to be really self-governing they ought to adjust their

expenditure—including therein their obligations to the common interests of India—according to their resources and not to draw indefinitely on more enterprising neighbours.

Provincial budgets and balances.

208. It follows from our proposed separation of revenues that there will in future be also a complete separation of the central and provincial budgets; and that the former will henceforward include only the direct transactions of the Government of India, and not as at present those of the provinces also. It likewise follows that there will be no more earmarking of any portion of provincial balances; and that portions previously earmarked will be available for general purposes.

Code restrictions.

209. Generally speaking provincial Governments enjoy the same detailed financial powers in divided heads as in those which are wholly provincial. The mere provincialization of heads of revenue and expenditure will therefore not of itself suffice to free the provinces from the restrictions on their spending powers which the provisions of the codes and other standing orders impose upon them. Nor can the Government of India, except to a relatively minor extent, enlarge their powers, since they themselves have to conform to the restrictions on expenditure imposed by the Secretary of State in Council. If provinces are to have a relatively freer hand in expenditure in future it will be necessary to relax the India Office control. Proposals for its relaxation are already under the consideration of the Government of India and will be further considered at the India Office.

Provincial taxation.

210. We saw also in chapter V that some means of enlarging the taxing powers of local Governments must, if possible, be found. We think that the best means of freeing the provincial Governments in this respect will be to schedule certain subjects of taxation as reserved for the provinces, and to retain the residuary powers in the hands of the Government of India, with whom rests the ultimate responsibility for the security of the country. We have not attempted to frame a schedule, as this can only be done in consultation with the provincial Governments. We think that where a tax falls within the schedule the Government of India's previous sanction to the legislation required for its imposition should not be necessary; but that the Bill should be forwarded to the Government of India in sufficient time to enable that Government to satisfy itself that the proposal is not open to objection as trenching on its own field of taxation. The Governor General's power of veto will ensure that the wishes of the Government of India are not disregarded. In cases not covered by the schedule the Government of India's sanction should be sought before the necessary legislation is introduced; but this sanction would be withheld only if the proposal trespassed on Indian heads of revenue to an undue extent; or if the tax was a new one and the central Government itself contemplated

imposing it as an all-India tax; or if the proposals were, in the opinion of the Government of India, likely to lead to undesirable consequences which would affect its own responsibilities. Where sanction is required it should be conveyed by executive orders; it is clearly undesirable to undertake double legislation. The right now enjoyed by private members of introducing taxation Bills will be continued, provided that the sanction of the head of the province is obtained to the introduction of the Bill, and that such Bills are, in relation to the Government of India, dealt with exactly as Government finance Bills.

Provincial borrowing.

211. We come now to the question of the borrowing powers of provincial Governments. In this respect provincial Governments are almost unanimous in desiring greater freedom. They recognize the difficulties which we have already discussed, and the impossibility of allowing them to compete with the Government of India in the open market. But they suggest that the central Government should regard an application for a loan solely from the standpoint of finance and not from that of administration, and that, if it has the money and is satisfied with the arrangements for financing the loan, it should not withhold sanction. It has also been represented to us that there exist local sources which could be tapped by provincial Governments but are not touched by Indian loans. A new argument for further liberty of action is afforded by our proposal to provincialize irrigation works on which a large capital expenditure is necessary. We think that in order to avoid harmful competition provincial Governments must continue to do their borrowing through the Government of India. Also it may often happen that the Government of India will not be able to raise sufficient money to meet all provincial requirements. In that case it may find it necessary to limit its total borrowing on behalf of provincial Governments in particular years; and when that happens, it will be difficult for it entirely to avoid a reference to the relative merits of the schemes for which the loans are wanted. We think, however, in such cases there ought to be no insuperable difficulty in making a reasonably fair and equitable distribution between the provinces. It may be found expedient in some cases to appoint a small committee on which the central and the provincial Governments are represented to settle the distribution; and it should be open to a province to renounce its claims in one year in return for the first claim on the money available in the next year. But we are prepared to go further. If the Government of India finds itself unable to raise the money in any one year which a province requires, or if there is good reason to believe that a provincial project may attract money which would not be elicited by a Government of India loan, we would allow the provincial Government to have recourse to the Indian market. But in that case we think that they should secure the approval of the Government of India to the method of borrowing, including the rate of interest, so as not to affect investments in the post office, and the time of borrowing, so as not to conflict with Indian loans. So far as the limited

market permits we should like to see the municipal practice of borrowing for unproductive public purposes with a sinking fund extended to provincial Governments.

Legislative devolution.

212. These measures will give provincial Governments the liberty of financial action which is indispensable; but the provinces must also be secured against any unnecessary interference by the Government of India in the spheres of legislative and administrative business. It is our intention to reserve to the Government of India a general overriding power of legislation for the discharge of all functions which it will have to perform. It should be enabled under this power to intervene in any province for the protection and enforcement of the interests for which it is responsible; to legislate on any provincial matter in respect of which uniformity of legislation is desirable either for the whole of India or for any two or more provinces; and to pass legislation which may be adopted either *simpliciter* or with modifications by any province which may wish to make use of it. We think that the Government of India must be the sole judge of the propriety of any legislation which it may undertake under any one of these categories, and that its competence so to legislate should not be open to challenge in the courts. Subject to these reservations we intend that within the field which may be marked off for provincial legislative control the sole legislative power shall rest with the provincial legislatures. The precise method by which this should be effected is a matter to be considered when the necessary statute is drafted, and we reserve our final opinion upon it. There are advantages in a statutory demarcation of powers such as is found in some federal constitutions, but we feel that if this is to leave the validity of acts to be challenged in the courts on the ground of their being in excess of the powers of the particular legislature by which they are passed, we should be subjecting every Government in the country to an almost intolerable harassment. Moreover, in India where the central Government must retain large responsibilities, as for defence and law and order, a statutory limitation upon its legislative functions may be inexpedient. We have already referred to the fact that there has been growing up in India for some time a convention which by now has acquired no little strength to the effect that the central Government shall not without strong reason legislate in the internal affairs of provinces. We think therefore that it may be better, instead of attempting to bar the legislative power of the Government of India in certain spheres of provincial business, to leave it to be settled as a matter of constitutional practice that the central Government will not interfere in provincial matters unless the interests for which it is itself responsible are directly affected.

Administrative devolution.

213. The question of restraining the central Government from administrative interference in the provinces is more difficult. We recognize that, in so far as the provincial Governments of the future will still remain

partly bureaucratic in character, there can be no logical reason for relaxing the control of superior official authority over them nor indeed would any general relaxation be approved by Indian opinion; and that in this respect the utmost that can be justified is such modification of present methods of control as aims at getting rid of interference in minor matters, which might very well be left to the decision of the authority which is most closely acquainted with the facts. It is, however, in relation to provincial Governments in their popular aspect that serious difficulties present themselves. So long as the Government of India itself is predominantly official in character and, therefore, remains amenable to the Secretary of State, its interference in any matters normally falling within the range of popular bodies in the provinces involves a clash of principle which cannot fail to engender some heat, and the scope of which it is on all grounds desirable to keep within very closely defined bounds. At the same time we perceive that there are many matters which, taken in bulk, may reasonably be regarded as fitted for administration by popular bodies, but which have aspects that cannot fail to be of intimate concern to the Government which is responsible for the security or good administration of the whole country. We shall have occasion to return to this point when we have stated our proposals for the demarcation of responsibility for the administration.

Provincial Executives.

Council government.

214. Let us now explain how we contemplate in future that the executive Governments of the provinces shall be constituted. As we have seen, three provinces are now governed by a Governor and an Executive Council of three members, of whom one is in practice an Indian and two are usually appointed from the Indian Civil Service, although the law says only that they must be qualified by twelve years' service under the Crown in India. One province, Bihar and Orissa, is administered by a lieutenant-governor with a council of three constituted in the same way. The remaining five provinces, that is to say, the three lieutenant-governorships of the United Provinces, the Punjab, and Burma, and the two chief commissionerships of the Central Provinces and Assam are under the administration of a single official head. We find throughout India a very general desire for the extension of council government. There is a belief that when the administration centres in a single man the pressure of work inevitably results in some matters of importance being disposed of in his name, but without personal reference to him, by secretaries to Government. There is also a feeling that collective decisions, which are the result of bringing together different points of view, are more likely to be judicious and well-weighed than those of a single mind. But, above all, council government is valued by Indians, because of the opportunity it affords for taking an Indian element into the administration itself. To our minds, however, there is an overriding reason of

greater importance than any of these. The retention of the administration of a province in the hands of a single man precludes the possibility of giving it a responsible character. Our first proposition, therefore, is that in all these provinces single-headed administration must cease and be replaced by collective administration.

The structure of the executive.

215. In determining the structure of the executive we have to bear in mind the duties with which it will be charged. We start with the two postulates that complete responsibility for the government cannot be given immediately without inviting a breakdown, and that some responsibility must be given at once if our scheme is to have any value. We have defined responsibility as consisting primarily in amenability to constituents and, in the second place, in amenability to an assembly. We do not believe that there is any way of satisfying these governing conditions other than by making a division of the functions of the provincial Government between those which may be made over to popular control and those which for the present must remain in official hands. The principles and methods of such division, and also the difficulties which it presents, we shall discuss hereafter. For the moment let us assume that such division has been made, and that certain heads of business are retained under official, and certain others made over to popular, control. We may call these the 'reserved' and 'transferred' subjects, respectively. It then follows that for the management of each of these two categories there must be some form of executive body, with a legislative organ in harmony with it, and if friction and disunion are to be avoided it is also highly desirable that the two parts of the executive should be harmonized. We have considered the various means open to us of satisfying these exacting requirements.

Dualism set aside.

216. In the first place we set aside the idea of establishing two different executives each working in conjunction with a separate legislature of its own. That plan seemed to us only to enhance the division between the two elements in the Government which it should be our object by every possible means to minimize. Such complete dualism in executive and legislature must lead to hopeless friction. One Government would be regarded as official, and one as Indian; and no great provision is needed to see how differences must ensue over the division of financial resources and other matters. Assuming therefore that the machine of government must as far as possible be single, and not dual, both in its legislative and executive aspects, we examined the alternative ways in which it appeared open to us to construct the executive.

An alternative plan.

217. One plan which we considered was that in all provinces there should be set up councils consisting of four members, of whom two would be qualified, as now, by service under the Crown in India, while for two no such qualification would be required. In practice the composition of

the councils would be two European officials and two Indians. Our further intention was, after subjecting an official executive so composed for a period of years to the influence of a legislative council constituted with an elected majority and associated with the administration by means of elected standing committees attached to the departments, to replace the two Indian members of the executive council by ministers appointed from, and accountable to, the legislative councils. During this period, which would be essentially one of training, some members of the legislative councils would have acquired some practical acquaintance with the art of administration through the standing committees, but there would be no formal distribution of business, so far as administration was concerned, into transferred and reserved subjects; though in dealing with the transferred subjects the Government would as far as possible endeavour to give effect to the wishes of the legislative councils. The executive in such a scheme, finding itself face to face with an elected majority which might withhold essential legislation or supplies, would have had to be armed with power to make good in the last resort its purposes in respect of reserved subjects. We do not think that such a scheme would have been unfavourably received in India. But further consideration showed that it was open to grave defects. So long as the Indian members of the executive were not appointed from the elected members of the legislative council they would have had no responsibility to the legislature. But if this defect were cured by appointing them from the legislative council we should have formed a Government all the members of which were equally responsible for all subjects but were, though to a lesser extent than in the Congress-League scheme, accountable to different authorities. If, on the other hand, we delayed this step until the training period was over, we should have encouraged the elected members of council in the habits of irresponsible criticism which have been the bane of the Morley-Minto councils, and from which it is our aim to escape. Then when ministers responsible to the legislative council were brought into being it would have been necessary, in pursuance of our principles, to place them in charge of the transferred subjects. But either the ministers would still have continued to share with the executive council responsibility for even the reserved subjects, or else they would have relinquished such joint responsibility and confined themselves exclusively to the transferred subjects. The former alternative is objectionable because it would make the ministers, who are responsible to the electorates, accountable to them not only for transferred subjects, for which responsibility is intended, but also for reserved subjects, over which popular control is not at present intended to operate. In the second place, it is objectionable because the responsibility for the reserved subjects would be shared by members of the executive council responsible to the Secretary of State with ministers responsible to electorates. The latter alternative is open to the criticism that it deprives the Indian element in the Government of such voice in the reserved subjects as they had previously enjoyed.

218. We propose therefore that in each province the executive Government should consist of two parts. One part would comprise the head of the province and an executive council of two members. In all provinces the head of the Government would be known as Governor, though this common designation would not imply any equality of emoluments or status, both of which would continue to be regulated by the existing distinctions, which seem to us generally suitable. One of the two executive councillors would in practice be a European, qualified by long official experience, and the other would be an Indian. It has been urged that the latter should be an elected member of the provincial legislative council. It is unreasonable that choice should be so limited. It should be open to the Governor to recommend whom he wishes. In making his nominations the Governor should be free to take into consideration the names of persons who had won distinction, whether in the legislative council or any other field. The Governor in Council would have charge of the reserved subjects. The other part of the Government would consist of one member, or more than one member, according to the number and importance of the transferred subjects, chosen by the Governor from the elected members of the legislative council. They would be known as ministers. They would be members of the executive Government, but not members of the executive council; and they would be appointed for the lifetime of the legislative council and if re-elected to that body would be re-eligible for appointment as members of the executive. As we have said, they would not hold office at the will of the legislature, but at that of their constituents. We make no recommendation in regard to pay. This is a matter which may be disposed of subsequently.

Our own proposals.

219. The portfolios dealing with the transferred subjects would be committed to the ministers, and on these subjects the ministers together with the Governor would form the administration. On such subjects their decisions would be final, subject only to the Governor's advice and control. We do not contemplate that from the outset the Governor should occupy the position of a purely constitutional Governor who is bound to accept the decisions of his ministers. Our hope and intention is that the ministers will gladly avail themselves of the Governor's trained advice upon administrative questions, while on his part he will be willing to meet their wishes to the furthest possible extent in cases where he realizes that they have the support of popular opinion. We reserve to him a power of control, because we regard him as generally responsible for his administration, but we should expect him to refuse assent to the proposals of his ministers only when the consequences of acquiescence would clearly be serious. Also we do not think that he should accept without hesitation and discussion proposals which are clearly seen to be the result of inexperience. But we do not intend that he should be in a position to refuse assent at discretion to all his ministers' proposals. We recommend that for the guid-

Relation of the Governor to ministers.

ance of Governors in relation to their ministers, and indeed on other matters also, an Instrument of Instructions be issued to them on appointment by the Secretary of State in Council.

Additional members without portfolio.

220. There is another provision which we wish to make. The Governor may be himself unfamiliar with Indian conditions; and his Government, constituted as we have proposed, will contain only one European member. He will thus normally have only one member with official experience. In some provinces where the Governor is himself an official and thoroughly familiar with the requirements of the province, the advice and assistance of one official colleague may suffice. But in other cases this will not be so. We propose, therefore, that the Governor should appoint, if he chooses, one or two additional members of his Government, as members without portfolio, for purposes of consultation and advice. It is true that it is always open to the Governor to seek the advice of any of his officials; but that is not the same thing as appointing them to be members of the Government with the status and authority attaching to such office. The additional members would still discharge the functions of, and draw the pay attached to, their substantive appointments.

Working of the executive.

221. It is our intention that the Government thus composed and with this distribution of functions shall discharge them as one Government. It is highly desirable that the executive should cultivate the habit of associated deliberation and essential that it should present a united front to the outside. We would therefore suggest that, as a general rule, it should deliberate as a whole, but there must certainly be occasions upon which the Governor will prefer to discuss a particular question with that part of his Government, directly responsible. It would therefore rest with him to decide whether to call a meeting of his whole Government, or of either part of it, though he would doubtless pay special attention to the advice of the particular member or minister in charge of the subjects under discussion. The actual decision on a transferred subject would be taken, after general discussion, by the Governor and his ministers; the action to be taken on a reserved subject would be taken, after similar discussion, by the Governor and the other members of his executive council, who would arrive at their decision in the manner provided in the existing statute. The additional members, if present, would take their share in the discussion, but would in no case take a part in the decision. At a meeting of the whole Government there would never be, in fact, any question of voting, for the decision would be left, as we have stated, to that part of the Government responsible for the particular subject involved. But there are questions upon which the functions of the two portions of the Government will touch or overlap, such, for instance, as decisions on the budget or on many matters of administration. On these questions, in case of a difference of opinion between the ministers and the executive council, it will be the Governor who decides.

222. Let us now see the advantages of this transitional arrangement and anticipate criticisms. It has been urged with great force that, at the outset, it would be unfair to entrust the responsibility for the administration of any subject to men holding office at the will of the legislative council. The legislative council has had no experience of the power of dismissing ministers, or the results attending the exercise of such power. Nobody in India is yet familiar with the obligations imposed by tenure of office at the will of a representative assembly. It is only by actual experience that these lessons can be learned. But our scheme prov[illegible]es security of tenure for ministers for the lifetime of the cou[illegible]is during the preliminary period, and therefore gives some tim[illegible]n to [illegible]ch we think should be short, to prepare for the full exercis[illegible]s nomi[illegible]ponsibility. By the device, however, of appointing the ministers from the elected members of the legislative council and making their tenure of office conditional on the retention of their seats we have established at once some measure of responsibility, in the form of responsibility to their constituents, and have thus put an end to the condition of affairs in which those entrusted with the administration are wholly irresponsible to the constituents who elect the legislative council. By dividing the Government into what will in effect be two committees with different responsibilities we have ensured that members of the Government accountable to different authorities do not exercise the same responsibility for all subjects. By entrusting the transferred portfolios to the ministers we have limited responsibility to the Indian electorate to those subjects in which we desire to give responsibility first. We have done this without now, or at any time, depriving the Indian element in the Government of responsibility for the reserved subjects. The fact that we are entrusting some functions of Government to ministers makes it impossible for us to contemplate the retention in any province of an executive council of more than two members; but the reduction of the European element in the council may be regarded as equivalent to an increase in the Indian element. At the same time, by the appointment of the additional members of the Government we have secured that the Governor shall have at his disposal ample official advice. The arrangement admits of adjustment to the different provinces, because we contemplate that the number of transferred subjects, and therefore the number of ministers, may vary in each province. It is quite true that our plan involves some weakening of the unity of the executive and some departure from constitutional orthodoxy; but whenever and wherever we approach this problem of realizing responsibility at different times in different functions we find it impossible to adhere tightly to theoretical principles. It would be impossible to attain our object by a composite Government so composed that all its members should be equally responsible for all subjects. At the same time, it is necessary to secure that the whole executive should be capable of acting together. What we can do is to aim at minimizing causes of friction; and we have proposed arrangements that can be worked by mutual forbearance

Advantages and disadvantages of this plan.

and a strong common purpose. It is our intention that the decisions of the Government should be loyally defended by the entire Government, but that the ministers should feel responsibility for conforming to the wishes of their constituents. It is true that these two forces may pull different ways; but, though the analogy is clearly not complete, there are occasions when members of a Government, and indeed members of Parliament at Home, have to choose between loyalty to the Government and to their own constituents. All the members of the composite executive will be chosen by the Governor, and his position in the administration will enable him to act as a strong unifying force. The habit of deliberating as a whole will also tend to preserve the unity of the Government, while the special responsibility of either part for the subjects committed to it will be recognized by the legislative council and the electorate. It seems to us, therefore, that, both from the point of view of capacity for development and from that of ensuring co-operation while developing responsibility, our arrangement is the best that can be devised for the transitional period.

Its justification.

223. Our proposals may strike some critics as complicated. But few constitutions, except those of a purely despotic character, can be described without some appearance of complication; and the course which we have deliberately chosen, and which is in its nature experimental and transitional, is relatively elaborate because it involves the temporary co-ordination of two different principles of government. If we had proposed to delay the concession of any responsibility at all until such time as we could give complete responsibility our scheme certainly would have had the minor merit of simplicity. But apart from our obligation to comply with the announcement of August 20, we feel that such a course would have subjected the mechanism of government, when the change from irresponsibility to complete responsibility came, to so violent a shock that it might well have broken down. We were driven therefore first to devising some dualism in the executive; and secondly to providing for such a balance of power between the two portions as would permit the one portion to grow without at the same time disabling the other from discharging its very necessary functions of preserving continuity and safeguarding essentials. Given such difficult conditions, we do not think that a less elaborate solution can readily be devised.

A further proposal.

224. The suggestion has been made to us that in some provinces it might be convenient, where the press of work is heavy, to appoint some members of the legislative council, not necessarily elected, to positions analogous to that of a parliamentary under-secretary in Great Britain, for the purpose of assisting the members of the executive in their departmental duties and of representing them in the legislative council. We feel no doubt that the elaboration of the machinery which is inevitable in future will impose greater burdens on the members of the Government. We suggest therefore that it may be advisable and convenient to take power to make such appointments.

Provincial Legislatures.

Composition of the councils.

225. We will now explain how we intend that the provincial legislatures of the future shall be constituted. We propose there shall be in each province an enlarged legislative council, differing in size and composition from province to province, with a substantial elected majority, elected by direct election on a broad franchise, with such communal and special representation as may be necessary. This brief epitome of our proposals needs some amplification if it is to be intelligible. We have been invited by many advisers to indicate at once the composition of the councils which we contemplate. We have refrained from that task for good and sufficient reasons. It would be easy to make proposals, but in the present state of our information it would be very difficult to invest those proposals with authority. If a sound beginning is to be made the foundations for the building must be laid deeper. The first step must be not a hard-and-fast adjustment of the composition of the councils to the various interests of each province as estimated from headquarters, but a careful survey of all the material available in the province for an electorate. We must, in fact, measure the number of persons who can in the different parts of the country be reasonably entrusted with the duties of citizenship. We must ascertain what sort of franchise will be suited to local conditions, and how interests that may be unable to find adequate representation in such constituencies are to be represented. Such an electoral survey of the entire country is obviously beyond our powers at the present time. We propose that the work should be undertaken by a special committee, which should be appointed to deal with it as soon as possible; for whatever modifications of our own proposals may be decided upon in further discussion it seems to us certain that work of this particular nature must in any case be done. We suggest that the committee should consist of a chairman, chosen from outside India, two experienced officials, and two Indians of high standing and repute. In each province the material for its deliberations would, of course, be prepared for it by the local Government; indeed in some spade-work has already been done. As the committee visited each province in turn one civilian officer and one Indian, appointed by the provincial Government, should join it and share in its labours. The committee's investigations into the subjects of the franchise, the constituencies, and the nominated element, to which we refer below, will enable it to advise as to the composition of the councils, which, we propose, should then be determined by the Secretary of State in Council, on the recommendation of the Government of India, in the form of regulations to be laid before Parliament. We think this is certainly a better method than to formulate such matters in the statute itself. All this electoral architecture must inevitably be experimental and will need modification and development from time to time.

226. While, however, we refrain from any discussion of details for which the material is not immediately available, there are certain broad questions upon which we certainly ought to indicate our conclusions, both because the issues are themselves important and because the committee will need general instructions on points of principle. We consider in the first place that the system of indirect elections should be swept away. It is one main cause of the unreality that characterizes the existing councils, because it effectively prevents the representative from feeling that he stands in any genuine relation to the original voter. Secondly, we consider that the limitations of the franchise, which it is obviously desirable to make as broad as possible, should be determined rather with reference to practical difficulties than to any *a priori* considerations as to the degree of education or amount of income which may be held to constitute a qualification. It is possible that owing to unequal distribution of population and wealth it may be necessary to differentiate the qualifications for a vote not merely between provinces, but between different parts of the same province. It is essential to take due account of the problems involved in the maintenance of an electoral roll, the attendance of voters at a polling centre, the danger of impersonation, and the subsequent adjudication of electoral petitions. On these considerations the strength of the official and non-official agency which could be made available for electoral purposes throughout the country has an important bearing, and warns us against any such inordinate and sudden extension of the franchise as might lead to a breakdown of the machinery through sheer weight of numbers.

The system of election and the franchise.

227. At this point we are brought face to face with the most difficult question which arises in connexion with elected assemblies—whether communal electorates are to be maintained. We may be told that this is a closed question, because the Muhammadans will never agree to any revision of the arrangement promised them by Lord Minto in 1906 and secured to them by the reforms of 1909. But we have felt bound to re-examine the question fully in the light of our new policy, and also because we have been pressed to extend the system of communal electorates in a variety of directions. This is no new problem. It has been discussed periodically from the time when the first steps were taken to liberalize the councils. There has hitherto been a weighty consensus of opinion that in a country like India no principle of representation other than by interests is practically possible. Lord Dufferin held this view in 1888, and in 1892 Lord Lansdowne's Government wrote that:—"The representation of such a community upon such a scale as the Act permits can only be secured by providing that each important class shall have the opportunity of making its views known in council by the mouth of some member specially acquainted with them." We note that in 1892 the small size of the councils was reckoned as a factor in the decision and that the contrary view was not without its exponents; but we feel no doubt

Communal electorates.

that Lord Minto's Government followed the predominant opinion when in 1908 they pressed for an important extension of the communal principle. Thus we have had to reckon not only with the settled existence of the system, but with a large volume of weighty opinion that no other method is feasible.

They are opposed to the teaching of history.

228. The crucial test to which, as we conceive, all proposals should be brought is whether they will or will not help to carry India towards responsible government. Some persons hold that for a people, such as they deem those of India to be, so divided by race, religion and caste as to be unable to consider the interests of any but their own section, a system of communal and class representation is not merely inevitable, but is actually best. They maintain that it evokes and applies the principle of democracy over the widest range over which it is actually alive at all by appealing to the instincts which are strongest; and that we must hope to develop the finer, which are also at present the weaker, instincts by using the forces that really count. According to this theory communal representation is an inevitable, and even a healthy, stage in the development of a non-political people. We find indeed that those who take this view are prepared to apply their principles on a scale previously unknown, and to devise elaborate systems of class or religious electorates into which all possible interests will be deftly fitted. But when we consider what responsible government implies, and how it was developed in the world, we cannot take this view. We find it in its earliest beginnings resting on an effective sense of the common interests, a bond compounded of community of race, religion and language. In the earlier form which it assumed in Europe it appeared only when the territorial principle had vanquished the tribal principle, and blood and religion had ceased to assert a rival claim with the State to a citizen's allegiance; and throughout its development in Western countries, even in cases where special reasons to the contrary were present, it has rested consistently on the same root principle. The solitary examples that we can discover of the opposing principle are those of Austria, a few of the smaller German states, and Cyprus. It is hardly necessary to explain why we dismiss these as irrelevant or unconvincing. We conclude unhesitatingly that the history of self-government among the nations who developed it, and spread it through the world, is decisively against the admission by the State of any divided allegiance; against the State's arranging its members in any way which encourages them to think of themselves primarily as citizens of any smaller unit than itself.

They perpetuate class divisions.

229. Indian lovers of their country would be the first to admit that India generally has not yet acquired the citizen spirit, and if we are really to lead her to self-government we must do all that we possibly can to call it forth in her people. Division by creeds and classes means the creation of political camps organized against each other, and teaches men to think as partisans and not

as citizens; and it is difficult to see how the change from this system to national representation is ever to occur. The British Government is often accused of dividing men in order to govern them. But if it unnecessarily divides them at the very moment when it professes to start them on the road to governing themselves it will find it difficult to meet the charge of being hypocritical or short-sighted.

They stereotype existing relations.

230. There is another important point. A minority which is given special representation owing to its weak and backward state is positively encouraged to settle down into a feeling of satisfied security; it is under no inducement to educate and qualify itself to make good the ground which it has lost compared with the stronger majority. On the other hand, the latter will be tempted to feel that they have done all they need do for their weaker fellow-countrymen, and that they are free to use their power for their own purposes. The give-and-take which is the essence of political life is lacking. There is no inducement to the one side to forbear, or to the other to exert itself. The communal system stereotypes existing relations.

The case of the Muhammadans.

231. We regard any system of communal electorates, therefore, as a very serious hindrance to the development of the self-governing principle. The evils of any extension of the system are plain. Already communal representation has been actually proposed for the benefit of a majority community in Madras. At the same time we must face the hard facts. The Muhammadans were given special representation with separate electorates in 1909. The Hindus' acquiescence is embodied in the present agreement between the political leaders of the two communities. The Muhammadans regard these as settled facts, and any attempt to go back on them would rouse a storm of bitter protest and put a severe strain on the loyalty of a community which has behaved with conspicuous loyalty during a period of very great difficulty, and which we know to be feeling no small anxiety for its own welfare under a system of popular government. The Muhammadans regard separate representation and communal electorates as their only adequate safeguards. But apart from a pledge which we must honour until we are released from it, we are bound to see that the community secures proper representation in the new councils. How can we say to them that we regard the decision of 1909 as mistaken, that its retention is incompatible with progress towards responsible government, that its reversal will eventually be to their benefit; and that for these reasons we have decided to go back on it? Much as we regret the necessity, we are convinced that so far as the Muhammadans at all events are concerned the present system must be maintained until conditions alter, even at the price of slower progress towards the realization of a common citizenship. But we can see no reason to set up communal representation for Muhammadans in any province where they form a majority of the voters.

232. We have been pressed to extend the concession to other communities. Some have based their claim on their backward, others on their advanced, condition. Thus, the Sikhs in the Punjab, the non-Brahmans in Madras (although in that presidency these actually constitute a majority), the Indian Christians, the Anglo-Indians, the Europeans, and the Lingayat community in Bombay have all asked for communal representation. The large landowning classes also generally desire representation in an electorate of their own. Now our decision to maintain separate electorates for Muhammadans makes it difficult for us to resist these other claims; but, as we have said, in the case of the Muhammadans we have felt ourselves bound by promises given and renewed by Secretaries of State and Viceroys, and in their respect at all events our recommendation involves no new departure. Any general extension of the communal system, however, would only encourage still further demands, and would in our deliberate opinion be fatal to that development of representation upon the national basis on which alone a system of responsible government can possibly be rooted. At the same time, we feel that there is one community from whom it is inexpedient to withhold the concession. The Sikhs in the Punjab are a distinct and important people; they supply a gallant and valuable element to the Indian Army; but they are everywhere in a minority, and experience has shown that they go virtually unrepresented. To the Sikhs, therefore, and to them alone, we propose to extend the system already adopted in the case of Muhammadans.

Other minority representation.

For the representation of other minorities we should prefer nomination. Even in the case of the general European community, whose material interests in the country are out of all proportion to their numerical strength and on whose behalf it may be argued that no departure from principle is involved, inasmuch as unlike all other communities named they are not an integral part of the population of India, we prefer to rely upon nomination. Special electorates will no doubt be required for the representation of the planting and mining interests, for the chambers of commerce, and possibly also for the universities; but we desire that the number of such electorates should be as restricted as possible, and that minority interests should, where necessary, be represented not by class or interest electorates, but by nomination. Where the great landowners form a distinct class in any province we think that there will be a case for giving them an electorate of their own. The anomaly involved in the presence of nominated members in a council to which we are giving some responsible powers must, we think, be accepted as one of the necessary illogicalities attendant on a transitional period. Such nominations are made for a representative purpose and can be made in such a way as to secure representation. Nomination has in our eyes the great advantage over the alternative of extending the class or communal system that it can be more easily abolished when the necessity for it ceases. We look to the desire of the communities represented by nominated members to see their represent-

atives in council placed upon the same footing as those of other communities to help us in securing the extension of the territorial principle of representation wherever possible. But it should be a clear instruction to the committee that the nominated element in the legislative councils is to be no larger than the exigencies of fair and adequate representation entail.

There may be cases in which nomination proves an unsuitable method of securing the representation of minorities. In such cases the committee should consider whether the needs of the case would be met by reserving to a particular community a certain number of seats in plural constituencies, but with a general electoral roll. We are inclined to look on such an arrangement as preferable to communal electorates.

Official members.

233. There seem to us good and sufficient reasons for not dispensing entirely with the official element in the legislative councils. Once the official *bloc* is swept away the main objection to the presence of officials no longer exists; their presence has the advantage of tending to steady discussion and of keeping it to practical issues; and their official experience will be invaluable. The exact number of official representatives will be a matter for the committee to consider. We advise, however, that the official element appointed by the Governor should be no larger than is considered necessary for the transaction of business. The members of the executive council should be *ex-officio* members of the legislative council, and there should be so many other official members as will provide the Government with first-hand knowledge of the matters likely to be discussed both in the council and in committee. We wish to see the convention established, though we propose to lay down no rule on the point, that on the subjects transferred to the control of ministers the official members of the legislative council would abstain from voting and leave the decision of the question to the non-official members of council. On other matters, except on occasions when the Government thinks it necessary to require their support, the nominated official members of the legislative councils should have freedom of speech and vote.

Designation of members.

234. The great increase which will result from our proposals in the number of members of the provincial legislative councils makes it desirable that they should no longer enjoy the designation "Honourable" which we desire to reserve for the members of the new bodies whose institution we propose in the next chapter. But conformably with practice in other parts of the Empire we suggest that provincial legislators should be entitled to affix the letters M.L.C. to their names. On the other hand, while the language of section 74 of the Government of India Act with its reference to "additional members" marks the survival of the idea that the legislative councils are merely expansions of the executive Government for the purpose of law-making, our proposals will have made it clear that we intend the Indian legislatures of the future to be substantive

legislative organs. We consider therefore that the term "additional members" should no longer be employed in the case of any Indian legislature.

Standing committees.

235. Our next proposal is intended to familiarize other elected members of the legislative council, besides ministers, with the processes of administration; and also to make the relations between the executive and legislative more intimate. We propose that to each department or group of departments, whether it is placed under a member of the executive council or under a minister, there should be attached a standing committee elected by the legislative council from among their own members. Their functions would be advisory. They would not have any administrative control of departments. It would be open to the Government to refuse information when it would be inconsistent with the public interest to furnish it. We do not intend that all questions raised in the course of day-to-day administration should be referred to them; but that they should see, discuss and record for the consideration of Government their opinions upon all questions of policy, all new schemes involving expenditure above a fixed limit, and all annual reports upon the working of the departments. If the recommendations of the standing committee were not accepted by Government it would, subject of course to the obligation of respecting confidence, be open to any of its members to move a resolution in the legislative council in the ordinary way. The member of the executive council, or minister concerned with the subject matter, should preside over the committee, and as an exception to the rule that it should be wholly non-official, the heads of the departments concerned, whether sitting in the legislative council or not, should also be full members of it, with the right to vote.

Control of business.

236. Bearing in mind the facts that the legislative councils will in future be larger bodies and will contain a certain number of members unversed in discussion, we feel the importance of maintaining such standards of business as will prevent any lowering of the council's repute. The conduct of business in a large deliberative body is a task that calls for experience which cannot be looked for at the outset in an elected member. We consider therefore that the Governor should remain the president of the legislative council, but inasmuch as it is not desirable that he should always preside, he should retain the power to appoint a vice-president. He should not be formally limited in his selection, but we suggest that for some time to come it will be expedient that the vice-president should be chosen from the official members.

Power to make its own rules of business is a normal attribute of a legislative body. But a simple and satisfactory procedure is of the essence of successful working; and it is advisable to avoid the risk that inexperience may lead to needless complication or other defect in the rules. We think therefore that the existing rules of procedure should, for the time being, continue in force, but that they

should be liable to modification by the legislative council with the sanction of the Governor.

One or two points in connexion with the rules require notice. Any member of the legislative council and not merely the asker of the original question, should, we think, have power to put supplementary questions. Power should be retained in the Governor's hands to disallow questions, the mere putting of which would be detrimental to the public interests. If a question is not objectionable in itself, but cannot be answered without harm to the public interests, the Governor should not disallow the question, but his Government should refuse to answer it on that ground. We have not considered in what respect existing restrictions upon the moving of resolutions should be modified; but here also it seems inevitable that some discretionary power of disallowance should remain in the Governor's hands.

Effect of resolutions.

237. We do not propose that resolutions, whether on reserved or transferred subjects, should be binding. The Congress-League proposal to give them such authority is open to the objections which we have already pointed out. If a member of the legislative council wishes the Government to be constrained to take action in a particular direction it will often be open to him to bring in a Bill to effect his purpose; and when ministers become, as we intend that they should, accountable to the legislative council, the council will have full means of controlling their administration by refusing them supplies or by means of votes of censure, the carrying of which may in accordance with established constitutional practice, involve their quitting office.

Division of the functions of government.

238. It is time to show how we propose that the sphere of business to be made over to the control of the popular element in the Government should be demarcated. We assumed in paragraphs 212 and 213, *supra*, that the entire field of provincial administration will be marked off from that of the Government of India. We assumed further that in each province certain definite subjects should be transferred for the purpose of administration by the ministers. All subjects not so transferred will be reserved to the hands of the Governor in Council. The list of transferred subjects will of course vary in each province; indeed it is by variation that our scheme will be adjusted to varying local conditions. It will also be susceptible of modification at subsequent stages. The determination of the list for each province will be a matter for careful investigation, for which reason we have not attempted to undertake it now. We could only have done so if, after settling the general principles on which the lists should be framed, we had made a prolonged tour in India and had discussed with the Government and people of each province the special conditions of its own case. This work should, we suggest, be entrusted to another special committee similar in composition to, but possibly smaller in size than, the one which we have already proposed to constitute for the purpose of

dealing with franchises and constituencies. It may be said that such a task can be appropriately undertaken only when our main proposals are approved. We find it difficult, however, to believe that any transitional scheme can be devised which will dispense with the necessity for some such demarcation; and for this reason we should like to see the committee constituted as soon as possible. It should meet and confer with the other committee which is to deal with franchises, because the extent to which responsibility can be transferred is related to the nature and extent of the electorate which will be available in any particular province. The committee's first business will be to consider what are the services to be appropriated to the provinces, all others remaining with the Government of India. We suggest that it will find that some matters are of wholly provincial concern, and that others are primarily provincial, but that in respect of them some statutory restrictions upon the discretion of provincial Governments may be necessary. Other matters again may be provincial in character so far as administration goes, while there may be good reasons for keeping the right of legislation in respect of them in the hands of the Government of India. The list so compiled will define the corpus of material to which our scheme is to be applied. In the second place the committee will consider which of the provincial subjects should be transferred, and what limitations must be placed upon the ministers' complete control of them. Their guiding principle should be to include in the transferred list those departments which afford most opportunity for local knowledge and social service, those in which Indians have shown themselves to be keenly interested, those in which mistakes which may occur though serious would not be irremediable, and those which stand most in need of development. In pursuance of this principle we should not expect to find that departments primarily concerned with the maintenance of law and order were transferred. Nor should we expect the transfer of matters which vitally affect the well-being of the masses who may not be adequately represented in the new councils, such for example as questions of land revenue or tenant rights. As an illustration of the kind of matters which we think might be treated as provincial and those which might be regarded as transferred we have presented two specimen lists in an appendix to this report. We know that our lists cannot be exhaustive; they will not be suitable to all provinces; they may not be exactly suitable to any province; but they will serve at all events to illustrate our intentions if not also as a starting point for the deliberations of the committee. Our lists are in the main mere categories of subjects. But we have mentioned by way of illustration some of the limitations which it will be necessary to impose or maintain. In dealing with each subject the powers of the provincial legislatures to alter Government of India Acts on that subject will have to be carefully considered. We have indicated in paragraph 240, *infra*, certain other reservations which seem to us necessary. On the publication of this report we should like to see the lists discussed in the provincial councils and considered by the provincial Governments, so that the committee may

have ready at hand considered criticisms upon the applicability of our suggestions to the circumstances of each particular province.

Settlement of disputes.

239. We realize that no demarcation of subjects can be decisive in the sense of leaving open no matter for controversy. Cases may arise in which it is open to doubt into which category a particular administrative question falls. There will be other cases in which two or more aspects of one and the same transaction belong to different categories. There must therefore be an authority to decide in such cases which portion of the Government has jurisdiction. Such a matter should be considered by the entire Government, but its decision must in the last resort lie definitely and finally with the Governor. We do not intend that the course of administration should be held up while his decision is challenged either in the law courts or by an appeal to the Government of India.

Powers of intervention.

240. Further, inasmuch as administration is a living business and its corpus cannot be dissected with the precision of an autopsy, we must, even in the case of matters ordinarily made over to non-official control, secure the right of re-entry either to the official executive Government of the province, or to the Government of India in cases where their interests are essentially affected. For instance, the central Government must have the power, for reasons which will be readily apparent in every case, of intervening effectively, whether by legislation or administrative action, in matters such as those affecting defence, or foreign or political relations, or foreign trade, or the tariff; or which give rise to questions affecting the interests of more than one province; or which concern the interests of all-India services even if serving under provincial Governments. Similarly the Governor in executive council must have power to intervene with full effect in matters which concern law and order, or which raise religious or racial issues, or to protect the interests of existing services. We do not claim that this list of reservations is exhaustive or definitive; we look to the committee to assist in making it so. Our aim must be to secure to the official executive the power of protecting effectually whatever functions are still reserved to it and to the Government of India of intervening in all cases in which the action of the non-official executive or council affects them to their serious prejudice. For otherwise the official Government which is still responsible to Parliament may be unable to discharge its responsibility properly.

The justification of this division.

241. No doubt we shall be told—indeed we have often been told already — that the business of government is one and indivisible, and that the attempt to divide it into two spheres controlled by different authorities, who are inspired by different principles and amenable to different sanctions, even with the unifying provisions which we have described is doomed to encounter such confusion and friction as will make the arrangement unworkable. We feel the

force of these objections. We have considered them very anxiously and have sought out every possible means of meeting them. But to those critics who press them to the point of condemning our scheme we would reply that we have examined many alternative plans, and found that they led either to deadlock or to more frequent or greater potentialities of friction. Such destructive arguments, so far as we can discover, are directed not so much against our particular plan, but against any plan that attempts to define the stages between the existing position and complete responsible government. The announcement of August 20 postulated that such stages could be found; indeed unless we can find them it is evident that there is no other course open than at some date or other to take a precipitate plunge forward from total irresponsibility to complete responsibility.

Alternative methods of division.

242. We have, however, encountered other critics whose arguments are worthy of fuller examination. They agree with us that some division of functions is the right, indeed the inevitable, method of progress; but they tell us that by attempting the division of powers upon the provincial plane we are needlessly enhancing the confusion and friction which will arise, and which could be and ought to be mitigated by a different disposition of the machinery. They urge in brief that the line of division should be horizontal and not vertical; and that popular control and popular responsibility ought to be developed not in the provincial legislative councils, but in new constitutional bodies to be created for the purpose and invested with jurisdiction over smaller areas. They claim that friction will be avoided or at all events diminished, if the delegated functions of the new bodies are more closely circumscribed by the terms of the legislation calling them into existence than is possible in the case of the provincial councils; and if they are protected from the temptation to place themselves in constant opposition to the official element which would be offered by the presence of both elements in one and the same Government and in one and the same council. They reckon it to the credit of their schemes that by confining the operations of the new constitutional bodies to areas smaller than provinces, they hope to draw into the arena of public affairs men who could hardly be expected to come forward for the provincial councils. They urge that by presenting themselves to the official services not so much as rival governments but as organs of local self-government on the largest and most generous scale, they may feel confident of official help and co-operation.

Plan of divisional councils.

243. In their less pretentious form of expression these ideas are embodied in a scheme which has been placed before us for the establishment of divisional councils. These bodies would have jurisdiction over a revenue division, and would deal with all questions of local self-government and certain other matters delegated to them, such as excise, agricultural farms, provincial roads and some branches of education. They would have definite revenues of their own and also power to increase their income by local taxation.

They would administer the business delegated to them by means of an executive committee, of whom the president would be elected by the council and would himself choose his own colleagues. The provincial legislative council would be composed of delegations from the divisional councils, and would contain no official members other than the members of the executive council who would attend only to reply to questions and to explain the Government's attitude. As regards the matters made over to the divisional councils the provincial council would retain certain powers of legislation, taxation, and of sanctioning rules; but as regards all other subjects its powers would be only those of deliberation and criticisms unless the Government referred a particular question to it for decision.

Reasons for rejecting it.

244. Though we desire to acknowledge the thoughtful manner in which the proposals were worked out we need not amplify them in detail because we found at the outset weighty reasons for rejecting them. The scheme in our opinion fails to provide for continuing an ordered progress in the future. The divisions are in very many instances artificial units, which are not suitable areas on which to base permanent institutions; and in any case they are certainly too small to serve permanently as self-governing units. Although it was contemplated that further spheres of business could be from time to time made over to them no great progress would be possible because the range of matters which could be administered on a divisional basis must for practical reasons be limited. Progress would therefore soon be checked unless, as indeed the authors of the scheme contemplated, the divisional councils coalesced so as to form larger bodies. It seems to us better to start from the outset on a plane on which a permanent edifice can be built. However this be, we feel that the scheme is unacceptable for reasons similar to those which led us to decide that it was impossible to confine advance to the limited sphere of purely local self-government. Whatever may be said of it on theoretical grounds it would not satisfy political needs. If the scheme for divisional councils, and the cognate scheme described below, succeeded in drawing into public life men who could hardly be expected to come forward to the provincial councils, it would also have the effect of very largely depriving those who had had some experience of political matters and whose life is spent in the provincial capitals of many opportunities of effective political work. On the legislative council they would find their functions narrowly restricted; and on the divisional councils also they would deal with a far smaller range of subjects than that with which they had hitherto been concerned.

Plan of provincial States.

245. We have also considered a more ambitious development of the same leading idea which was presented to us by the signatories to a joint address of European and Indian gentlemen in Calcutta. They propose that existing provinces should be sub-divided into a limited number of smaller areas on a linguistic or racial basis, and that for such provincial States there should be constituted State councils and State

governments dealing only with such matters as those which in our scheme would be included in the transferred list. The official Government of the province would continue to administer the reserved subjects for the whole provincial area; but inasmuch as responsibility would have been given and would be intended to be developed solely in the State councils, the legislative council of the province would, when the daughter bodies came into being, lose its legislative functions and lapse into the position of a purely advisory body, except that if the provincial executive disregarded its wishes it would have the right of appeal to the Government of India and the Secretary of State. As the State councils developed, more and more functions would be made over to them, as the result of periodical inquiry by a recurrent commission—an idea for which we acknowledge our own indebtedness to the authors of the scheme—until finally the provincial Governments disappeared, and the future polity of British India was represented by a series of States enjoying responsible government.

246. We have considered this scheme with the care which its skilful preparation and authoritative endorsement deserve. But the disadvantages of the scheme, as it seems to us, far outweigh its advantages. The proposals to withdraw from the provincial councils, even as a transitional arrangement, their present opportunities of affecting the action of Government would certainly meet with great opposition and be regarded as retrograde. Moreover, while the State Governments would indeed be real Governments and not merely larger organs of local self-government, it would, we believe, be necessary to circumscribe their powers to an extent on which it will be difficult to insist in practice. Though differences in area might mitigate the effects of dualism there would actually be in one and the same territory two Governments and two legislatures, each equipped with a separate service of officers. There would be no means of securing cohesion between the two Governments; and we apprehend that grave divergences of view might occur which there would be no easy means of composing. If it is true that the presence of two elements in one and the same Government presents opportunities for collision it presents also opportunities for understanding and co-operation. It appears to us that wisdom lies not in equipping each of the different elements with a complete and separate paraphernalia of its own, and trusting to their orbits lying sufficiently apart for collisions to be avoided, but in taking every opportunity of bringing the two elements into contact so as to induce the habits of joint action. However this be, there remains one practical reason of paramount force against our proceeding with the scheme. In spite of the evidence which has reached us of the existence in parts of India of distinct areas or communities which are anxious to secede from the larger administrative units of which they now form part, we feel sure that any general scheme of geographical partition would evoke such strong opposition as would be fatal to the whole plan. Generally speaking, we may describe provincial patriotism as sensitively jealous of its territorial integrity. Divi-

Reasons for rejecting it generally.

sions of territory which are not made in response to a popular demand are apt to provoke wide and deep-seated dissatisfaction. We are convinced, after taking note of a recent debate in the Indian Legislative Council upon this subject, that we should be very unwise to attempt to unite the sufficiently difficult task of revising the constitution of India with the highly controversial labour of simultaneously revising the political geography of the entire country. None the less, while we discard as impracticable the idea of calling into existence new provincial States as part of our own constructive scheme, we are impressed with the artificial, and often inconvenient character of existing administrative units. We have seen how historical reasons brought them about. We cannot doubt that the business of government would be simplified if administrative units were both smaller and more homogeneous; and when we bear in mind the prospect of the immense burdens of government in India being transferred to comparatively inexperienced hands such considerations acquire additional weight. It is also a strong argument in favour of linguistic or racial units of government that, by making it possible to conduct the business of legislation in the vernacular, they would contribute to draw into the arena of public affairs men who were not acquainted with English. We believe emphatically that redistributions of provincial areas cannot be imposed upon the people by official action; and that such a process ought in any case to follow, and neither to precede nor accompany, constitutional reform. But we are bound to indicate our own clear opinion that wherever such redistributions are necessary and can be effected by process of consent the attempt to do so should be made; and therefore we desire that it should be recognized as one of the earliest duties incumbent upon all the reformed provincial Governments to test provincial opinion upon schemes directed to this end In Orissa and Berar at all events it seems to us that the possibility of instituting sub-provinces need not be excluded from consideration at a very early date.

Means of securing the affirmative power of legislation.

247. We now turn to a consideration of the work of the legislative councils. Assuming that they have been reconstituted with elective majorities, and that the reserved and transferred subjects have been demarcated in the way suggested, let us consider how the executive Government is to be enabled to secure the passing of such legislation or such supplies as it considers absolutely necessary in respect of the reserved services. For we must make some such provision if we are going to hold it responsible for the government of the province.

Now in respect of legislation there are several possibilities. We might leave it to the Government of India to pass the laws which a provincial Government has failed to carry in the Indian legislature where, as we shall show, we intend to leave it in a position to pass the laws which it deems essential; or we might leave it to the Governor General, or preferably perhaps to the Governor General in Council, to make and promulgate ordinances, having effect either

for a specified period, or else until such time as the life of the provincial legislative council which refused the desired legislation was cut short or expired and a new council was elected in its place; or we might arm the provincial Government with a similar power of ordinance-making. We shall explain why we reject all these alternatives.

By Government of India legislation.

248. To invite the Government of India to intervene whenever the provincial Government encountered effective opposition to its legislative proposals would strike at one of our root propositions. The provincial Governments must ordinarily be autonomous in their own legislative field; and for them to call in the Government of India for this purpose would be a negation of this principle. Moreover, we feel the gravest doubt whether the Government of India would in fact be found willing to undertake any such responsibility. The Government of India would be accused of ignorance of local conditions and disregard of provincial wishes; of giving with one hand and taking away with another. Nor would its legislature be suitably constituted for such a purpose. We question whether it would be at all disposed to assume the ungrateful task of carrying in its own legislature such unpopular and controversial legislation as provincial circumstances might demand.

By ordinances

249. For even stronger reasons we reject the suggestion that the Governor General or the Governor General in Council should be invited to deal with the refusal of a provincial council to pass a law by the device of promulgating an ordinance. As we saw, this power was a revival of the old system by which the original executives made the law; it was in its revived form never intended for more than emergency use, to which purpose it has since been strictly confined. Apart from war legislation, the Governor General's ordinance-making power has been employed only six times in 57 years. To resort to it as an ordinary means of carrying Bills that had been refused by a provincial council would excite the strongest opposition; and to pass ordinances without first enabling the council to discuss them would be to abandon all the advantages of publicity and criticism. The idea that the provincial Governor in Council should be equipped with a power to make ordinances was also one to which we gave some consideration. Inasmuch as there will be a strong Indian element in the provincial executives of the future the opposition to such legislation by the executive would no doubt be diminished; but we felt that it was impossible to ask Parliament to confer on the Governments of provinces a power which they had never enjoyed since 1833 and which is opposed to the whole spirit of our reforms. A further practical objection was the likelihood that the executive would be often divided upon the merits of a particular project, and that the Governor who proposed to put it into force by the medium of an ordinance might find himself faced with the resignation of some of his Indian colleagues or ministers.

250. We considered further whether these objections could not be mitigated by laying the proposed ordinances before an advisory committee, or by carrying them by the machinery of a separate council dealing only with reserved subjects. In this latter case the Governor in Council would obtain his essential legislation and supplies from a legislative council so constituted as to enable Government to give effect to its wishes, while the ministers would lay their Bills and financial proposals before another legislative council wholly or predominantly elected. We abandoned this idea, first, because it appeared to us to emphasize most unwisely the severance between the two elements in the administration which it should be our consistent aim to bring together as closely and continuously as possible; and, secondly, because it deprived the popular legislature of the power which it now enjoys of affecting the action of Government in the reserved subjects.

Other proposals.

251. The alternative plan of constituting an advisory committee before which draft ordinances should be placed before their promulgation did not satisfy us. We felt that though the deliberations of such a body might palliate the nakedness of what is really an official edict, the fact that the committee's assent to the measure would not be necessary would deprive the palliative of any political value.

Advisory ordinance committees.

252. Because, as we shall show in paragraph 258, we have decided not to recommend the institution of second chambers in the provinces we cannot apply to the provinces the scheme which we propose hereafter for the Government of India; and we must turn to some form of unicameral arrangement. The solution which we propose is as follows. For the purpose of enabling the provincial Government to get through its legislation on reserved subjects we propose that the head of the Government should have power to certify that a Bill dealing with a reserved subject is a measure "essential to the discharge of his responsibility for the peace or tranquillity of the province or of any part thereof, or for the discharge of his responsibility for the reserved subjects." In employing these words we are not assuming the function of a parliamentary draftsman; we merely mean to indicate that words will be needed to show that this exceptional procedure will be used only when the Government feels that its legislation is necessary if peace and tranquillity are to be secured, or more generally if it is properly to discharge its responsibility for the reserved subjects even if no question of maintaining order arises. It will be seen hereafter that we propose similar procedure for controlling non-official Bills, amendments and clauses and for controlling budget allotments on reserved subjects. In these cases also we shall speak of certification as indicating that the Governor was using the exceptional procedure in the circumstances described above. Such a certificate as we have described would not be given without strong reason; and we suggest that the reasons justifying recourse to it might be included in the

Our proposals. Grand committees.

Instructions to Governors which the India Office should issue; for instance, we think that the Governor should not certify a Bill if he thought its enactment could safely be left to the legislative council. The effect of the Governor's certificate when published with the Bill will be to intimate the procedure which we now describe. The Bill will be read and its general principles discussed in the full legislative council. It will at this stage be open to the council by a majority vote to request the Governor to refer to the Government of India, whose decision on the point shall be final, the question whether the certified Bill deals with a reserved subject. If no such reference is made, or if the Government of India decide that the certificate has been properly given, the Bill will then be automatically referred to a grand committee of the council. Its composition should reproduce as nearly as possible the proportion of the various elements in the larger body. Our first intention was that the grand committee in each province should be a microcosm of the existing council. But we find that the existence of communal and special electorates makes it difficult to secure to all of these their due representation on a smaller body without at the same time sacrificing the representation of the interests represented by the general electorates, to which it is our special intention to give a greater voice in the councils than heretofore. Accordingly, we propose that the grand committee in every council should be constituted so as to comprise from 40 to 50 per cent of its strength. It should be chosen for each Bill, partly by election by ballot, and partly by nomination. The Governor should have power to nominate a bare majority exclusive of himself. Of the members so nominated not more than two-thirds should be officials, and the elected element should be elected *ad hoc* by the elected members of the council on the system of the transferable vote. It is clear that the composition of the grand committee ought to vary with the subject matter of the particular Bill; and we believe that the council and the Governor between them can be trusted to ensure that whether by election or nomination all the interests affected by the Bill are properly represented. It may be objected that such a grand committee so composed offers the official executive no absolute guarantee that its measure will get through. We agree that this is the case; but there is no such guarantee at present. In a grand committee of 40 members there could be 14 officials, and we consider that no great harm will ensue if Government defers legislative projects which are opposed by the whole elected element and for which it cannot secure the support of six out of the seven members, whom the Governor has it in his power to select from the whole body of the non-official members in the council.

Procedure after reference to grand committee.

253. On reference to the grand committee, the Bill will be debated by that body in the ordinary course and if necessary referred to a select committee, to which body we think that the grand committee should have power to appoint any member of the legislative council whether a member of the grand committee or not.

The select committee will, as at present, have power to take evidence. Then, after being debated in the grand committee and modified as may be determined the Bill will be reported to the whole council. The council will have the right to discuss the Bill again generally but will not be able to reject it, or to amend it except on the motion of a member of the executive council. The Governor will then appoint a time-limit within which the Bill may be debated in the council, and on its expiry it will pass automatically. But during such discussion the council will have the right to pass a resolution recording any objection which refers to the principle or details of the measure (but not of course to the certificate of its character), and any such resolution will accompany the Act when, after being signed by the Governor, it is submitted to the Governor General and the Secretary of State.

Treatment of mixed legislation.

254. Legislation on transferred subjects and non-certificated legislation on reserved subjects will continue to be passed by the full council. This makes it necessary to provide for the contingency that a Bill on a transferred subject may trench upon the reserved field of legislation. We suggest that it should be open to any member of the executive council (though to prevent irresponsible obstruction we would not give this power to members of the legislative councils generally) to challenge the whole Bill or any clause of it on its first introduction, or any amendment, as soon as such amendment is moved, on the ground that the Bill, clause, or amendment impinges on the reserved sphere. The question will then be referred to the Governor, who may allow the Bill to proceed in legislative council. But if he rules that the Bill, clause, or amendment trenches upon the reserved subjects, he may, if he sees reason to do so (after hearing any representations that the legislative council may desire to make), certify it accordingly. The Governor's certificate to this effect should be final, subject only to the right of the council to require a reference to the Government of India (as provided in paragraph 252, *supra*). If the Governor certifies the Bill, clause, or amendment it will be open to him either to decline to allow it to be discussed, in which case it would drop; or to suggest to the council an amended Bill; or at the request of the council to refer the Bill to a grand committee. With this proviso, there will be no need to impose restrictions other than those already imposed by section 80 of the Government of India Act, 1915, on the right of private members to introduce Bills. We may be told that the procedure suggested is cumbrous and dilatory, and offers a premium to obstructive tactics. But we confess that we have not been able to find any simpler method of reconciling two competing aims—the competence of Government to secure its necessary legislation, and on the other hand the power of the elected element in council to ensure that such discretion shall not be used arbitrarily or without due necessity by the executive. It must, we think, be left to the good sense of the council itself, which will realize that its own record will be closely scrutinized and adjudicated upon by the

periodic commission, which we propose below, to exert itself to check abuses. We consider also that the Governor of a province should have power to dissolve his legislative council and that this will give him a valuable means of control. It will be understood that the assent of the Governor, the Governor General, and the Crown (signified through the Secretary of State) will remain necessary for all provincial legislation, whether certified or not. We think, moreover, that the Governor's discretionary power of assenting to a Bill should include a power to return the measure for reconsideration of particular provisions in it; and that the Governor General should have the same power of reserving provincial laws for the Royal assent as he has in the case of all Indian legislation.

Budget procedure.

255. We now come to the crucial question of budget procedure. It is more difficult than that of legislation, because while legislation on a reserved subject may clearly not impinge on transferred subjects, money devoted to reserved objects of expenditure can with some sort of reason be always represented as being diverted from the transferred objects. There must therefore be means of securing that the executive council shall be able to find the money to keep the administration of reserved subjects efficient, and there must also be means of [illegible] that to the expanding cost of the transferred services, a fair proportion of the total revenue is devoted. For it must be remembered that the transferred services are generally those which stand in greater need of development.

Its difficulties and their solution.

256. To this end we have examined various expedients. We were attracted by the possibility of appointing a joint committee representing both official and non-official views to make a financial settlement dealing with both reserved and transferred subjects, which should hold good for a period of say six years, always supposing that it can be varied meantime by agreement, confirmed by the assent of the legislative council. We were anxious to find some solution for the difficulties and friction which might otherwise annually occur between the two elements in the Government which are responsible for the reserved and transferred services. The device of reference to the Government of India we dismiss as being a negation of our leading principle of provincial autonomy. It seems to us even more idle to suggest a settlement by process of laying papers before Parliament. It has also been proposed that disputes might be composed by an internal tribunal within the province, comprising a high court judge, a Government official, and an elected member; but we dismiss such an expedient from consideration, because so long as the Governor in Council is responsible for reserved subjects, we hold that he must have power to decide what revenues he requires. On full consideration we have decided to set aside all suggestions for a settlement. We doubt whether any committee's recommendations would commend themselves to Indian opinion much better than the Governor's decision, to which in the event of irreconcilable difference of opinion between the two halves of the Government the matter must ultimately come.

A settlement would also result in a rigid allocation, which would be yearly attacked in debates and which it might be difficult to vary by agreement; and at best it only defers the difficulty for a six years' period, at the end of which it would present itself again with the accumulated force of six years' discontents. It is impossible to foresee the contingencies which may occur in six years, and to budget in advance for so long a period. The difficulty is fundamental and we cannot overcome it by any simple device. Nor are we without belief in the educative efficacy of the annual budget discussion. We propose therefore that the provincial budget should be framed by the executive Government as a whole. The first charge on provincial revenues will be the contribution to the Government of India; and after that the supply for the reserved subjects will have priority. The allocation of supply for the transferred subjects will be decided by the ministers. If the revenue is insufficient for their needs the question of new taxation will be decided by the Governor and the ministers. We are bound to recognize that in time new taxation will be necessary, for no conceivable economies can finance the new developments which are to be anticipated. The budget will then be laid before the council which will discuss it and vote by resolution upon the allotments. If the legislative council rejects or modifies the proposed allotment for reserved subjects the Governor should have power to insist on the whole, or any part of the allotment originally provided, if for reasons to be stated he certifies its necessity in the terms which we have already suggested. We are emphatically of opinion that the Governor in Council must be empowered to obtain the supply which he declares to be necessary for the discharge of his responsibilities. Except in so far as the Governor exercises this power the budget would be altered in accordance with the resolutions carried in council.

Safeguards against difficulties.

257. We anticipate that anxiety may be felt as to the supply for the transferred subjects. We believe that this anxiety is largely based on an exaggerated view of the possibilities of economy in the reserved subjects. We do not feel, however, that there need be any apprehension. No Governor in Council is likely, without real reason, to disregard the wishes of the legislative council, and we hold that, if he has real reasons, he ought to disregard them in the discharge of his responsibilities. But we may point out the series of safeguards which our plan provides. The budget will be considered by the whole Government acting together. Those in charge of the transferred subjects will have every opportunity of acquainting themselves with the considerations upon which the allotment for the reserved subjects is based. In these joint discussions the provincial revenues will be estimated; the contribution to the Government of India will be set apart; the proposed allotments for the reserved subjects will then be carefully scrutinized and examined with a view to facing criticism in the legislative council, and the remainder of the revenue will be at the disposal of the ministers. If such residue is not sufficient, it is

open to the ministers to suggest extra taxation either within the schedule of permissible provincial taxation, or by obtaining the sanction of the Government of India to some tax not included in the schedule. Such taxation proposals would be presented to the legislative council only with the approval of the ministers. Moreover, there is a standing committee representative of the legislative councils not only on finance, but attached to all the reserved portfolios; and these standing committees will have the opportunity of scrutinizing all proposals for substantial expenditure, and of familiarizing themselves with departmental needs. But if the ministers and the legislative councils are compelled to accept allotments for the reserved subjects with which they do not agree our proposal that a periodic commission shall review the proceedings affords another safeguard. Both the Government and the legislative council will decide on their course of action with the full knowledge that their conduct in the matter will, in due course, come under review by the Commission. There will be opportunity of arguing before the Commission, on the one hand, that reserved subjects have been extravagantly administered, or that the Governor in Council has unnecessarily disregarded the wishes of the legislative council, or, on the other hand, that the attitude of the legislative council with regard to the expenditure on reserved subjects has been so unreasonable as to make it unsafe to transfer further powers. Although we believe, therefore, that no insuperable difficulty will arise if reasonable men conduct themselves in a reasonable manner this periodic sanction will tend to produce a spirit of compromise and co-operation.

Upper houses.

258. At this point we may explain that we have considered the feasibility of establishing a bicameral system in the provinces. Its advocates urge that in creating upper houses we should follow the system which generally prevails in countries where popular government has firmly established itself. We might also expect that the representation of minority interests would become more effective in an upper house than in a single composite chamber, because minority representatives sitting in a chamber of their own might feel themselves freer to defend the interests which they represented than if they sat together with other elements in a lower house. We might secure men for the upper houses who would not seek election or even accept nomination, to a composite assembly where the majority of members were of a different status from themselves; and so the second chamber might develop a conservative character which would be a valuable check on the possibly too radical proclivities of a lower house. But we see very serious practical objections to the idea. In many provinces it would be impossible to secure a sufficient number of suitable members for two houses. We apprehend also that a second chamber representing mainly landed and moneyed interests might prove too effective a barrier against legislation which affected such interests. Again, the presence of large landed proprietors in the second chamber might have the unfortunate result of discouraging

other members of the same class from seeking the votes of the electorate. We think that the delay involved in passing legislation through two houses would make the system far too cumbrous to contemplate for the business of provincial legislation. We have decided for the present, therefore, against bicameral institutions for the provinces. At the same time we bear in mind that as provincial councils approach more closely to parliamentary forms the need for revising chambers may be the more felt; and we think that the question should be further considered by the periodic commission which we propose hereafter.

Relations of the services to the Government.

259. We should now make it clear what the relations of the executive officers in the provinces will be to the new Government. Let us say at once that we have no intention of introducing any duality into the services. It would be unfair to expect ministers new to responsibility to assume the burden of office unless they could command the assistance of the present highly trained services. To require them to inaugurate new services for their own departments would, we think, be to saddle them with difficulties that would doom the experiment to failure. This consideration, among others, was prominent in our minds when we concluded that ministers should form part of the executive Government of the province rather than a separate Government. That there are difficulties in either case we do not deny, but they would certainly be greater if one and the same officer received his orders from two Governments instead of one. The objection may be taken that the same authority may not be felt to attach to orders coming from ministers as to orders coming from the executive council. We do not admit that they will come from either. All orders will come from the Government, and they will all be Government orders. At the present time it is not the business of an executive officer to differentiate between an order conveyed to him by the secretary to Government in one department, and an order conveyed to him by the secretary in another department, and the procedure will not differ in the future.

FUTURE DEVELOPMENT.

Modification by the Government of India.

260. Having now described the new constitution which we propose at the outset let us show how we intend to provide for its assured and regular development in future. Our idea is that as the popular element of the Government acquires experience and learns to discharge its duties efficiently further powers should be entrusted to it. The process in fact will be one of adding to the transferred subjects and of taking from the reserved ones, until such time as with the entire disappearance of the reserved subjects the need for an official element in the Government, or of procedure by grand committee, vanishes, and thus the goal of complete responsibility is attained in the provinces. What we have to do is at once to encourage and to regulate this process. After five years'

mation can follow in the time named. The pace will be everywhere unequal, though progress in one province will always stimulate progress elsewhere; but undue expectations might be aroused if we indicated any opinion as to the degree of approximation to complete self-government that might be reached even in one or two of the most advanced provinces. The reasons that make complete responsibility at present impossible are likely to continue operative in some degree even after a decade. Within that time many persons will have been brought in touch with problems of administration and a considerable number will have some experience of the actual exercise of responsibility; but we recognize that time is necessary for the development of responsibility in the electorates and the growth of proper relations between representatives and constituencies. At present electorates of a general character hardly exist. Almost all are designed to represent special classes or interests and consist of very few persons. Those which represent Muhammadans were intended to be fairly inclusive but even those are limited to a few hundred electors. The much larger electorates that will now be set up, though still a mere fraction of the population, will be devoid of political experience. The habit of considering political issues as issues to be decided by a man's own judgment, of realizing their value of the proper use of a vote and of judging candidates with regard to their fitness to represent the elector's views have all to be acquired. The physical circumstances of electorates thinly scattered over wide areas with indifferent communications will render the task of educating them particularly difficult, especially for men who will have to undertake a work of which they themselves have so little experience. These difficulties will be increased by the general lack of education. Where the great mass of the population is illiterate, as is unfortunately the case all over India, political ideas may be expected only to spread slowly and the progress of political education to be impeded. But we have already recognized the rapid rate of progress which has taken place in India during recent years in the development of political opinion; and we cannot foresee how much the pace will be accelerated under the new conditions. It is therefore clearly desirable that periodic inquiries should take place at intervals that may prove too short rather than that encouragement should be given to agitation by undue delay.

Matter for special consideration.

264. But inasmuch as complete responsible government essentially depends upon the existence of an electorate sufficiently active and cognizant of affairs to hold their representatives effectively to account we think that one of the most important duties of the commission will be to examine the growth of capacity and responsibility in the electorates. The approximation to complete responsibility must depend among other things on the growth of the electorate and on the measure in which they give evidence of an active and intelligent use of the franchise. We wish to attain complete responsibility where we can and as early as we can, and we intend that its attainment should depend upon the efforts of the Indian people themselves. It would not be fair to give it to them till they fulfil the necessary conditions.

Chapter IX.—The Government of India and the India Office.

I.—The Government of India.

The need for change.

265. We shall have discharged our task indifferently if it is not already plain from our report that all the changes which we suggest are no more than the necessary adjustment of the constitution to a rapidly changing environment. So long as the people of India were content to leave their government in official hands the system was well-devised to the needs of the country, and was directed with astonishing zeal and success to beneficent ends. We have tried to give some account of the burden of the work. We may well pause to pay a tribute to the part played by the Government of India itself in guiding and inspiring the entire system. Rarely has a heavier burden of responsibility continuously rested on a smaller body of men; rarely has it been discharged with greater ability or a higher sense of public duty. We have changes to propose, corresponding to changing conditions; but we should keenly regret it if anything we said were taken as failing in the tribute due to great work finely done. But more is now being demanded of the system than it can give. It is no longer sufficient to administer India; it is necessary also to satisfy her political aspirations; and because we were all too slow in taking cognizance of the changes that were occurring the task is all the heavier because there is lee-way to make up. We must therefore introduce a new element of strength into the Government.

The burden of work.

266. We have already made our opinion clear that pending the development of responsible government in the provinces the Government of India must remain responsible only to Parliament. In other words, in all matters which it judges to be essential to the discharge of its responsibilities for peace, order, and good government it must, saving only for its accountability to Parliament, retain indisputable power. With the precise manner in which the control by Parliament must in future be modified we shall deal hereafter. For the present we will concern ourselves with changes in the functions, structure, and methods of the Government of India itself. We think we have reason for saying that in some respects the machinery is no longer equal to the needs of the time. The normal work of the departments is heavy. The collective responsibility of the Government is weighty, especially in time of war. There is little time or energy left for those activities of a political nature which the new situation in the country demands. A legislative session of the Government of India imposes a serious strain upon the departments, and especially on the members in charge of them. They have not merely to carry on their heavy task of adminis-

tration and to share in the discussion and decision of grave matters of policy. but they have to prepare themselves to meet a growing volume of criticism at meetings of the legislative council; and when, as has now happened, they are called upon in addition to deal with urgent and complex questions of constitutional reform, the burden becomes one that it is unreasonable to impose on so small and highly worked a body of men. We desire to take this opportunity of acknowledging how ungrudgingly their services have been given to our present task. But, apart from the inevitable complexities of the moment, the growing burden of business, which results from the changing political conditions of the country, is leading to an accumulation of questions which cannot be disposed of as quickly as they present themselves. We find the necessity for reforms admitted, principles agreed upon and decisions taken, and then long delays in giving effect to them. Difficulties are realized, inquiries are started, commissions report, and then there is a pause. There is a belief abroad that assurances given in public pronouncements of policy are sometimes not fulfilled. On this occasion therefore we have taken steps to guard against such imputations, and to provide means for ensuring the ordered development of our own plans.

Present causes of delay.

267. The main fault for the clogging of the machine does not, we think, lie altogether with its highly trained engineers. What is chiefly wanted is some change of system in the directions of simplicity and speed. How does it happen that announcements are made that arouse expectations only to defeat them? We know that it is not from any intention of deluding the public. We suggest that it is because the wheels move too slowly for the times; the need for change is realized, but because an examination of details would take too long promises are made in general terms. which on examination it becomes necessary so to qualify with reservations as to disappoint anticipations and even to lead to charges of breach of faith. We suspect that a root cause of some political discontents lies in such delays. Now, so far as the provinces are concerned, we believe that our proposals for freeing them to a great extent from the control of the Government of India and the Secretary of State will improve matters. But the Government of India are in the worst case. In all important matters they have to consult local Governments, and then to secure the approval of the Secretary of State. Consultation with local Governments there must always be; but with developing autonomy in the provinces, and less frequent interference by the Secretary of State, we see no reason why quicker and more informal methods should not be pursued. We hope that the new departure inaugurated in January last at the conference between the Government of India and all the heads of Governments in Delhi may be repeated annually, and may lead to a closer understanding of the varying conditions of the provinces and some diminution of official correspondence.

268. References to the India Office are a second fruitful cause of delay. The India Office, having statutory responsibilities to discharge, exercises its authority with good care and with all the expert knowledge at its command. Proposals that have been examined in India are re-examined in England and fresh suggestions may be forthcoming from Whitehall upon which Delhi may find it necessary to take the further opinion of Calcutta, Bombay, and the rest. Now we recognize that so long as the Indian Government is not responsible to an electorate the guardianship of the welfare of India as a whole must remain in the hands of Parliament. Indeed, as we shall show, we go on hereafter to make suggestions for sustaining the interest taken by Parliament in India better and for improving the means of information at its disposal. But, on the other hand, we must also consider practical needs. We have seen how rarely Parliament asserts its power, how little interest and time it devotes to Indian affairs, and how much it leaves to the Secretary of State in Council. Granting, therefore, that Parliament's understanding of the larger Indian questions, and its responsibility for policy, ought to be increased there is no real inconsistency in saying that we should ask it simultaneously to agree to relax the Secretary of State's control in details. We consider that the Secretary of State's previous sanction to decisions taken in India should be required in fewer cases than in the past; and that in some matters it will suffice in future if he asserts his control by means of a veto if necessary.

References to the India Office.

269. A further cause contributing to delay is that the departments at headquarters are now overworked. It is often overlooked how small is the staff which carries on the work of the great departments. Normally, it consists of a member in charge, a secretary, a deputy secretary, and an under-secretary. The remainder of the staff is purely clerical. If this is compared with the staffing of one of the great departments in Whitehall, and every allowance is made for the difference of conditions, it will be clear how numerically weak the staff of the Government of India is; and how great is the strain upon its members, especially in such times as the present. One reason why the departments can move quickly in England is because their day-to-day administration runs itself. New inquiries can be set on foot, and policies thought out by the head of the department, with the help of a large and experienced permanent staff. In India the higher staff of the secretariats is not permanent, because rightly or wrongly it has always been held desirable to maintain touch between the headquarters offices and the districts. Men are selected from the administrative staff, serve for a time in the offices, and return to administration. One result of this discontinuity is that questions which a permanent civil service can safely dispose of by word of mouth become the subject of continuous minuting. Changes of personnel necessitate a record of the questions and the aspects of questions considered. We express no opinion on the system, but it requires detailed examination. Indeed, the Viceroy has already signified

Insufficiency of staff.

to his colleagues his intention of causing it to be examined after the war. Till that time comes the inquiry could not be pursued with advantage; but once the stress of war is over, and departments can estimate their permanent needs, the inquiry should be taken up probably with the assistance of experts from England. Our proposal is made without prejudice to the process of taking further Indians into the services. From whatever source the additional help is to be sought there can be no question of its acute necessity.

Inherent tendencies of an official Government.

270. But a constitutional element of delay may be found in the character of the Government itself. Because it is bureaucratic it is naturally less anxious to move than a responsible Government. In the matters where Parliament does not affect it its duty is to its own conscience—or perhaps we should say to its successors in office—and not to any constituents. We should do well to associate with it a really representative assembly so as to ensure that in the comparative seclusion of its domicile in Delhi and Simla the wishes of the country are accurately and regularly presented to it, and that its action is adequately criticized. In this way not merely shall we get a succession of stimuli from outside which would benefit the Government in India, but the Secretary of State in England will have the means of judging what view is taken in India of the actions of the Government, and so the modified measure of Home control which we propose will come to be exercised not merely in accordance with British views, but with regard also to the expressed views of those who represent constituencies in India. These are the considerations underlying the proposals which we put forward for changes in the structure of the Government of India both in its executive and legislative aspects.

The Governor General's Executive Council.

271. We have explained already how the executive council of the Governor General is constituted and how portfolios are allotted in it. Its changed relations with provincial governments will in themselves materially affect the volume of work coming before the departments, and for this reason alone some redistribution will be necessary. We would therefore abolish such statutory restrictions as now exist in respect of the appointment of members of the Governor General's Council so as to give greater elasticity both in respect of the size of the Government and the distribution ot work. If it is desired to retain parliamentary control over these matters they might be embodied in statutory orders to be laid before Parliament.

Increase in Indian element.

272. Further, we propose to increase the Indian element in the executive council. We do not think it necessary to argue the expediency of enabling the wishes of India to be further represented in the Cabinet of the country. The decision of Lord Morley and Lord Minto to appoint one Indian member to the council marked an important stage in India's political development; and has proved of value in enabling the Govern-

ment to have first-hand acquaintance with Indian opinion. In recommending a second appointment we are only pursuing the policy already determined upon in respect of the public services. There exists, of course, at present no racial prescription in the statute, nor do we propose that any should be introduced. There is even no formal guarantee that any appointment shall be made on the grounds of race. The appointment of Indian members will be made in the future as in the past as a matter of practice by the Crown on the recommendation of the Secretary of State; and we suggest the appointment of another Indian member as soon as may be.

The Indian Legislative Assembly.

273. We now come to the changes required in the Indian Legislative Council. Its existing composition we have already explained. No argument is needed to show that under present conditions 27 elected members, many of them returned by small class electorates, cannot adequately represent the interests of the entire country in the supreme assembly. Indeed, no council the composition of which is conditioned by the necessity of maintaining an official majority could possibly serve that purpose. We recommend therefore that the strength of the legislative council, to be known in future as the Legislative Assembly of India, should be raised to a total strength of about 100 members, so as to be far more truly representative of British India. We propose that two-thirds of this total should be returned by election; and that one-third should be nominated by the Governor General of which third not less than a third again should be non-officials selected with the object of representing minority or special interests. We have decided not to present to His Majesty's Government a complete scheme for the election of the elected representatives; our discussions have shown us that we have not the data on which to arrive at any sound conclusions. Some special representation, we think, there must be, as for European and Indian commerce and also for the large landlords. There should be also communal representation for Muhammadans in most provinces and also for Sikhs in the Punjab. There is no difficulty about direct election in the case of special constituencies. It is in respect of the general or residuary, electorate, including therein the communal electorates for Muhammadans and Sikhs, that complexities present themselves. Our decided preference is for a system of direct electorates, but the immensity of the country makes it difficult; it may be impossible to form constituencies of reasonable size in which candidates will be able to get into direct touch with the electorates. Moreover, there is the further difficulty (which, however, presents itself in any system of constituencies) of the inequalities of wealth existing between the different communities. If constituencies are to be approximately even in size it may be necessary to concede a special franchise to the Muhammadans, who, taken as a whole, are poorer than the Hindus; and this means giving a vote to some Muhammadans who would not be entitled to vote if they were Hindus. That is an undesirable anomaly, to which we should prefer the anomaly of unequal constituencies; but on our present information we find it

impossible to say how great the practical difficulties of variation in size might be. Similar problems will present themselves in respect of constituencies for the elections to provincial councils. It is obviously desirable to deal on uniform lines with the electoral arrangements both in the provincial and Indian councils. As regards the former we have already recommended the appointment of a special committee to investigate questions of franchises and electorates; and to that body we would therefore also commit the task of determining the electorates and constituencies for the Indian Legislative Assembly. They may find it wholly impracticable to arrange for direct election. In that case, they will consider the various possible systems of indirect election. We are fully aware of the objections attaching to all forms of indirect ele-tion; but if the difficulties of direct election compel us to have recourse to indirect, we incline to think that election by non-official members of provincial councils is likely to prove far more acceptable to Indian opinion and, in spite of the smallness of the electoral bo· ·s, certainly not open in practice to greater objection than any of the her alternative methods which have been from time to time propos·

For reasons similar to those which we have given case of the provincial legislative councils we recommend that me f the Indian Legislative Assembly should not be designated . urable" but should be entitled to affix the letters M.L.A. to the·

274. The suggestion we have made for the num· ted members was based on the calc· ation that the three presidencies would be represented by 11 members each; the United Provinces by 10, the Punjab and Bihar and Orissa by 7 each, the Central Provinces by 5, Burma by 3, and Assam by 2. We also think that in view of the importance of the Delhi province as the Imperial enclave and the seat of the central Government it should be represented by a member.

Representation of the provinces.

275. In respect of the non-official members to be nominated by the Governor General we advise that no hard-and-fast rule should be laid down. These seats should be regarded as a reserve in his hands for the purpose of adjusting inequalities and supplementing defects in representation. Nominations should not be made until the results of all the elections are known; and then they should be made after informal consultation with the heads of provinces. The maximum number of nominated officials will be two-ninths of the whole, and it will rest with the Governor General to determine whether he requires to appoint up to this maximum. The officials will, however, include the executive members of assembly, sitting not by appointment, but *ex officio*; and also some representation from the provinces. It may therefore not be possible for secretaries to the Government of India to continue to sit in the assembly; this may in itself be of advantage as decreasing the dislocation of administrative business during the session. It may, however, be necessary to allow the secretary to speak and vote on behalf of the member when occasion demands.

Nominated members.

But for this purpose we think that a preferable alternative may be to appoint members of the assembly, not necessarily elected, nor even non-official, to positions analogous to those of parliamentary under-secretaries in England; and we advise that power be taken to make such appointments. We attach importance to the further proposal that official members of the assembly, other than members of the executive government, should be allowed a free right of speech and vote, except when the Government decides that their support is necessary. We think that this change of procedure will affect the tone of discussions very beneficially. We think that, for the reasons which we have given already in supp[illegible] of a similar recommendation in respect of the provincial councils, the president of the Legislative Assembly should be nominated by the Governor General. We do not propose that his choice should be formally limited, but it seems necessary that, at any rate for the present, the president should be designated from among the official members.

Means of securing the affirmative power of legislation.

276. We began with the fundamental proposition that the capacity of the Government of India to obtain its will in all essential matters must be unimpaired. The institution of an assembly with a large elected majority confronts us with the problem, as in the case of the provinces, of enabling the executive government to secure its essential legislation and its supplies. Here also we have examined several possible expedients. In this instance, there can be no question of relying on legislation by superior authority. The only superior authority is Parliament, and Parliament is too far off and notoriously too preoccupied and not suitably constituted to pass laws for the domestic needs of India. It is true that the Governor General has the power of making temporary ordinances for certain emergent purposes. We propose that this power should be retained; its utility has been strikingly demonstrated during the present war. It merely provides, however, a means of issuing decrees, after private discussion in the executive council, and without opportunities for public debate or criticism; and normally it should be used only in rare emergencies. It would be unsuitable for our purpose. What we seek is some means, for use on special occasions, of placing on the statute book, after full publicity and discussion, permanent measures to which the majority of members in the Legislative Assembly may be unwilling to assent. We seek deliberately, when the purpose justifies us, to depart from popular methods of legislation; and it is obvious that no device which conforms to those methods can possibly serve our purpose. For this purpose we have come to the conclusion that we should employ the method now familiar to Indian institutions of maintaining such a number of votes, upon which the Government can in all circumstances rely, as to ensure the passage of the legislation that it requires. It is ereh alone, and only (as will be seen hereafter) for use in cases where it is obviously necessary, that we propose to perpetuate the official *bloc*.

We are seeking to provide for a period of transition; for which purpose a novel expedient, such as multiplying the value of official votes, or calling in officials who have not taken part in the argument to record their votes, or of passing measures automatically after discussion, would be as easily understood, or as acceptable, as the continuance in modified form of the present system.

The Council of State.

277. One suggestion which we considered was that we should follow the plan adopted in the provinces, and institute grand committees to which the Government's essential Bills should be referred. But the conditions of Indian legislation are different from those of provincial. Matters are more important, the Government's responsibility to Parliament is closer, and the affirmative power must be more decisively used. We feel also that there are advantages, both direct and incidental, in setting up a separate constitutional body, in which Government will be able to command a majority. We do not propose to institute a complete bicameral system, but to create a second chamber, known as the Council of State, which shall take its part in ordinary legislative business and shall be the final legislative authority in matters which the Government regards as essential. The Council of State will be composed of 50 members, exclusive of the Governor General, who would be president, with power to appoint a vice-president, who would normally take his place: not more than 25 will be officials, including the members of the executive council, and 4 would be non-officials nominated by the Governor General. Official members would be eligible for nomination to both the Legislative Assembly and the Council of State. There would be 21 elected members, of whom 15 will be returned by the non-official members of the provincial legislative councils, each council returning two members, other than those of Burma, the Central Provinces, and Assam, which will return one member each. Elected members returned to the Council of State would vacate any seats they occupied on the provincial council or the Legislative Assembly. The remaining six elected members are intended to supplement the representation which the Muhammadans and the landed classes will otherwise secure; and also to provide for the representation of chambers of commerce. Each of these three interests should, we suggest, return two members directly to the Council of State. Bearing in mind the fact that among the members of the provincial legislative councils who will elect to the 15 seats there will be a proportion of Muhammadans, and assuming that in each of the bigger provinces each elector will be able as now to give both his votes to one candidate, we estimate that the composition of the Councils of State should comprise at least six Muhammadans, whether sitting by direct or indirect election or by the Governor General's nomination. Moreover, it is desirable that the four seats to be filled by direct election should be used so as to ensure that the Muhammadan and landed members should as far as possible be representative of the whole of India. Deficiences

may occur in this respect in any one council but they should be corrected in elections to the subsequent council. For this reason the regulations for elections to the four seats should be framed by the Governor General in Council in such a way as to enable him to decide, after consideration of the results of the indirect elections, from what part of India, or possibly in what manner from India, generally the seats should be filled.

Qualifications for membership.

278. Inasmuch as the Council of State will be the supreme legislative authority for India on all crucial questions, and also the revising authority upon all Indian legislation, we desire to attract to it the services of the best men available in the country. We desire that the Council of State should develop something of the experience and dignity of a body of Elder Statesmen; and we suggest therefore that the Governor General in Council should make regulations as to the qualifications of candidates for election to that body which will ensure that their status and position and record of services will give to the council a senatorial character, and the qualities usually regarded as appropriate to a revising chamber. We consider that the designation "Honourable" should be enjoyed by the members of the Council of State during their tenure of office. In accordance with the proposals which we make hereafter for associating the Ruling Princes with the Government for the purpose of deliberation on matters of common concern it would be, as will be seen, the Council of State with which the Princes would be associated It is desirable that as is the case with second chambers elsewhere, the lifetime of the Council of State should be longer than that of the assembly; and assuming that the life of the latter will be three years, we propose five years as the normal duration of each Council of State.

Legislative procedure. Government Bills.

279. Let us now explain how this legislative machinery will work. It will make for clearness to deal separately with Government Bills and Bills introduced by non-official members. A Government Bill will ordinarily be introduced and carried through all the usual stages in the Legislative Assembly. It will then go in the ordinary course to the Council of State, and if there amended in any way which the assembly is not willing to accept, it will be submitted to a joint session of both Houses, by whose decision its ultimate fate will be decided. This will be the ordinary course of legislation. But it might well happen that amendments made by the Council of State were such as to be essential in the view of the Government if the purpose with which the Bill was originally introduced was to be achieved, and in this case the Governor General in Council would certify that the amendments were essential to the interests of peace, order, or good government. The assembly would then not have power to reject or modify these amendments, nor would they be open to revision in a joint session.

We have to provide for two other possibilities. Cases may occur in which the Legislative Assembly refuses leave to the introduction of

a Bill, or throws out a Bill which the Government regarded as necessary. For such a contingency we would provide that if leave to introduce a Government Bill is refused, or if the Bill is thrown out at any stage, the Government should have the power, on the certificate of the Governor General in Council that the Bill is essential to the interests of peace, order, or good government, to refer it *de novo* to the Council of State; and if the Bill, after being taken in all its stages through the Council of State, was passed by that body it would become law without further reference to the assembly. Further, there may be cases when the consideration of a measure by both chambers would take too long if the emergency which called for the measure is to be met. Such a contingency should rarely arise; but we advise that, in cases of emergency, so certified by the Governor General in Council, it should be open to the Government to introduce a Bill in the Council of State, and upon its being passed there merely to report it to the assembly.

Private members' Bills.

280. We come now to non-official members' Bills. They would be introduced in whichever of the two chambers the mover sat and, on being carried there, would be taken to the other chamber and carried through that. In the case of a difference of opinion between the two bodies the Bill would be submitted to a joint session of both, and would either be finally rejected, or would be submitted for assent in the form in which it was there passed. It might, however, occur that a non-official member's Bill emerged from the assembly, whether originally introduced there or not, in a form which the Government thought prejudicial to peace, order, and good government. In this case, also, if the Governor General in Council were prepared to give a certificate in the terms already stated, the Bill would go or go back to the Council of State and could only become law in the form there finally given to it.

Advantages of this procedure.

281. Our object has thus been where possible to make assent by both bodies the normal condition of legislation, but to establish the principle that in the case of certificated legislation the will of the Council of State should prevail, and in other legislation the will of the non-official members of both chambers taken together should prevail. In time to come, if and when the procedure by certification becomes unnecessary, the Council of State will become, as in other countries, a purely revising chamber, and differences between the two chambers will be adjusted by joint sessions. We considered the alternative course of leaving non-certificated Bills wholly to the Legislative Assembly, and using the Council of St te only for certificated Bills. We dismissed this plan, first, because we regard it as important to establish what may hereafter become a normal second chamber; secondly, because we were unwilling to exclude the non-official members of the Council of State, to which we wished to attract the best men available, from all share in the passing of non-certificated business, and all opportunities of introducing Bills. Finally, our own proposal which gives the Government

an opportunity of amending a private member's Bill, instead of leaving the Government with no alternative but to veto a measure some features of which it may disapprove, affords the means by which beneficial changes in the law may result from non-official initiative. It will, we believe, be found to be not the least advantage of the institutions which we propose that by allowing questions to be freely discussed, first in a popular assembly and then reviewed by a revising body in which Government is in a position to exert as little influence as it likes, the course of social legislation to which our Indian advisers attach particular importance will be materially promoted. For if Government is assured that projects of social reform have the support of the Indian element in two chambers so differently constituted it will have the less reason for offering any obstacle to their progress.

A possible objection.

282. The objection may be raised to our proposal for joint sessions that the non-official members of the assembly will be swamped by the official members of the Council of State in combination with the official members of the assembly. We think that this criticism will be disposed of by further consideration of the figures. The assembly will consist of, let us say, at least 78 non-official, and at most 22 official, members. The Council of State will consist of 25 non-officials, and at most 25 officials, because the whole number of officials in either chamber need not necessarily be appointed. In a full joint session, however, there might be 103 non-officials, and about 40 officials, because the members of the Governor General's Executive Council will be members of both bodies. But we have provided that the official members of the assembly may also be nominated to membership of the Council of State, and we imagine that this will be the rule rather than the exception. It would be difficult, and also inadvisable, from the point of view of departmental business, to bring 40 official members to the meetings of the legislative bodies, and we conceive therefore that, including the members of the executive council, the official element in a joint session might be taken at 30. Moreover, in debates on a non-certificated Bill, official members would be left free to vote and speak as they please, and therefore should not be expected to act as a solid body. In these calculations we have classed together the nominated non-officials and the elected members of both chambers. But the 15 nominated non-officials will be nominated to represent particular interests, and we see no reason to anticipate that they will act less consistently than they have done in the past with their elected fellow-representatives.

Powers of dissolution, assent, etc.

283. The Governor General should in our opinion have power at any time to dissolve either the Legislative Assembly or the Council of State, or both these bodies. It is perhaps unnecessary to add that the Governor General and the Secretary of State should retain their existing powers of assent, reservation, and disallowance to all Acts of the Indian legislature. The present powers of the Governor General in

Council under section 71 of the Government of India Act, 1915, to make regulations proposed to him by local Governments for the peace and good government of backward tracts of territory should also be preserved, with the modification that it will in future rest with the head of the province concerned to propose such regulations to the Government of India.

Fiscal legislation. Effect of resolutions.

284. Fiscal legislation will, of course, be subject to the procedure which we have recommended in respect of Government Bills. The budget will be introduced in the Legislative Assembly but the Assembly will not vote it. Resolutions upon budget matters and upon all other questions whether moved in the Assembly or in the Council of State will continue to be advisory in character. We have already given our reasons for holding that it is not feasible to give resolutions a legal sanction. But since resolutions will no longer be defeated in the assembly by the vote of an official majority they will, if carried, stand on record as the considered opinion of a body which is at all events more representative than the legislative council which it displaced. That in itself will mean that the significance of resolutions will be enhanced; there will be a heavier responsibility upon those who pass them, because of their added weight; and the Government's responsibility for not taking action upon them will also be heavier. It will be therefore incumbent on Government to oppose resolutions which it regards as prejudicial with all the force and earnestness that it can command in the hope of convincing the assembly of their undesirability. There must, however, remain to the Government power not to give effect to any resolution which it cannot reconcile with its responsibility for the peace, order, and good government of the country.

Standing committees.

285. We wish to apply the procedure of standing committees described in the last chapter, as far as may be to both portions of the Indian legislature. The committees would be drawn jointly from the Assembly and the Council of State. We do not overlook the difficulties entailed by the nature of many of the subjects with which the central Government is concerned, and also by the comparative infrequency with which, owing to considerations of distance, such committees can assemble. The fact that many matters of ordinary internal administration will in future be left to provincial Governments also limits the scope of utility of standing committees in the central legislature. We would leave it to the Government of India to decide with what departments standing committees can be associated; and to the member in charge to decide what matters can be referred to the committee. Our idea is that the non-official members of the Assembly and Council of State might elect by ballot in proportion to their respective strength two-thirds of the members of each committee while Government nominates the remaining one-third. It is obvious that these committees cannot play such an important part in the work of the Government as the similar committees which we have

suggested in the provinces. It will be difficult to obtain their assistance in practice, except during the session or immediately before and after it, but we think there should be no difficulty ordinarily in obtaining their views on important new projects, whether legislative or administrative. Their functions might be determined by regulations to be made by the Governor General in Council.

Questions and rules of procedure.

286. A few subsidiary matters of minor importance remain to be dealt with. We think that any member of the Assembly or the Council of State (and not merely the member who asks the original question) should have the right to put supplementary questions. The control of questions in both bodies should be regulated on lines similar to those which we have suggested in the case of provincial councils; and the question of restrictions upon resolutions should also be similarly treated. But, apart from matters affecting the powers of the legislature, we think that the rules of procedure for both bodies should be made in the first instance by the Governor General in Council. The Assembly and the Council of State should both have power to modify their rules with the sanction of the Governor General. The approval of the Secretary of State and Parliament should not be required.

An Indian Privy Council.

287. We have a further recommendation to make. We would ask that His Majesty may be graciously pleased to approve the institution of a Privy Council for India. From time to time projects of this kind have been mooted and laid aside; but with the changed conditions we believe that such a body would serve a valuable purpose and do useful work. India, for all its changing ideas, is still ready to look up with pride and affection to any authority clothed with attributes that it can respect and admire. Appointments to the Privy Council should be made by the King-Emperor, and for life, which would ensure that they would be valued as a high personal distinction. Officials and non-officials, both from British India and the Native States, would be eligible; but it would be necessary to confine appointment to those who had won real distinction, or had held, or were holding, the highest offices, such as Members of the Governments, Ruling Princes, Members of the Council of State, and High Court Judges. Indian Privy Councillors should enjoy the title of "Honourable" for life. The Privy Council's office would be to advise the Governor General when he saw fit to consult it on questions of policy and administration. It is our hope that for one purpose or another Committees of the Council, comparable to those of the Privy Council in England, which have done such valuable work in connexion with industrial and scientific research and education, will be appointed.

Periodic commission.

288. At the end of the last chapter we recommended that ten years after the institution of our reforms, and again at intervals of twelve years thereafter, a com-

mission approved by Parliament should investigate the working of the changes introduced into the provinces, and recommend as to their further progress. It should be equally the duty of the commission to examine and report upon the new constitution of the Government of India, with particular reference to the working of the machinery for representation, the procedure by certificate, and the results of joint sessions. The commission will, doubtless, if they see fit, have proposals to make for further changes in the light of the experience gained. There is no need for us at this stage to attempt to anticipate the line which their recommendations may take.

Summary.

289. Let us now sum up our proposals. We seek to create an enlarged Legislative Assembly with an elective majority; to reserve to the decision of the Council of State, in which the Government will command a bare majority, only those measures which it must have power to carry in the discharge of its continuing responsibility for the good government of the land; to restrict the official *bloc* to the smallest dimensions and the least frequent activity that is compatible with the same guiding principle; to institute a Privy Council of India as a means of honouring and employing ripe wisdom or meritorious service; to admit a second Indian member into the innermost counsels of the Indian Government. It is true that we do not offer responsibility to elected members of the Legislative Assembly; and that we define the sphere in which the Government will defer to the wishes of the elected members not by specific directions in a schedule, as we have done in the provinces, but by a general prescription which we leave the Government to interpret. But we have carried the advance right up to the line beyond which our principles forbid us to go; and by confining the use of the special machinery of autocracy to essential cases where a public declaration of necessity must be made we have gone definitely beyond the position implied in the Morley-Minto reforms. If there be among Indian politicians those who are impatient of any delay that they encounter on their way to occupy the citadel they may remind themselves how often before in Indian history has it been said '*Hanoz Dihli dur ast*'*. Impatience we cannot, and ought not, to seek to satisfy. What we have done is to afford Indians a fair share in the government of the entire country, while providing in the provinces the means for them to attain the stage of responsible government to which the beginning of responsibility for the Government of India itself must be the sequel.

II.—The India Office.

Powers of the Secretary of State.

290. It now remains for us to examine the effect of our proposals upon the position of the Secretary of State for India in Council and the control which Parliament exercises through him over all the Governments in India. We have already explained how the Act

* 'Delhi is yet afar off.'

of 1858, which brought the East India Company to an end, set up the Secretary of State with the Council of India to assist him, as the Minister of State responsible for Indian affairs. In the language of the existing law the Secretary of State has power to " superintend, direct and control all acts, operations and concerns which relate to the Government or revenue of India and all grants of salaries, gratuities and allowances and all other payments and charges, out of or on the revenues of India ". Again, section 21 of the Government of India Act, 1915, reads as follows :—" The expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council ; and no grant or appropriation of any part of those revenues, or any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India."

Delegation to the Government of India. In transferred matters.

291. It has been, of course, impossible in practice that the affairs of a vast and remote Asiatic dependency should be administered directly from Whitehall ; and, as we have seen, large powers and responsibilities have always been left by the Secretary of State to the Government of India and again by the Government of India to local Governments. At the same time, the Secretary of State's responsibility to Parliament has set very practical limits to the extent of the delegation which he can be expected to sanction. Now that His Majesty's Government have declared their policy of developing responsible institutions in India we are satisfied that Parliament must be asked to assent to set certain bounds to its own responsibility for the internal administration of that country. It must, we think, be laid down broadly that, in respect of all matters in which responsibility is entrusted to representative bodies in India, Parliament must be prepared to forgo the exercise of its own power of control, and that this process must continue *pari passu* with the development of responsible government in the provinces and eventually in the Government of India. The process should, we think, begin with the conclusions arrived at on the report of the committee which will consider the question of transferred subjects. Having taken their report and the views of the Government of India upon it into consideration the Secretary of State would, we imagine, ask Parliament's assent to his declaring by statutory orders which he would be empowered to make under the Act that such and such subjects in the various provinces have been transferred ; and when Parliament has assented to such orders the Secretary of State would cease to control the administration of the subjects which they covered. The discussion of such matters by Parliament in future would be governed by the fact of their transfer. We appreciate the difficulties of the situation ; but it must be recognized that it will be impossible for Parliament to retain control of matters which it has deliberately delegated to representative bodies in India. At the same time, it will be necessary to ensure that the

Secretary of State is in a position to furnish Parliament with any information upon Indian affairs that it desires; and nothing in our proposals should be taken as intended to impair the liability of the Government of India and the provincial Governments to furnish such information to the India Office at any time.

And in reserved matters.

292. So far we have had in mind only the transferred subjects. But even as regards reserved subjects, while there cannot be any abandonment by Parliament of ultimate powers of control, there should, as we have indicated already, be such delegation of financial and administrative authority as will leave the Government of India free, and enable them to leave the provincial Governments free, to work with the expedition that is desirable. On the purely financial side this delegation will involve an examination of the various codes and other regulations and orders, which we have already described as limiting too straitly the power of the authorities in India. This matter is already being examined in India, and the Government of India will make proposals to the Secretary of State in Council. On the purely administrative side there are as we have seen no general orders, like those embodied in the financial codes, prescribing the matters for which the Secretary of State's sanction is required. But in an earlier chapter we gave an illustrative list of the subjects regarded as falling within that category; and, generally speaking, it is well understood that all important new departures require his previous approval. The drawing of the line between the important and unimportant can only be left to the common sense of the authorities in India and at Home. But we are agreed that a wider discretion ought henceforth to be left to the Governor General in Council; and that certain matters which are now referred Home for sanction might in future be referred merely for the information of the Secretary of State in Council. The exact definition of these particular matters must also be pursued at greater leisure, and the Government of India will take this question in hand. It will follow in such cases in future that when the policy of the executive Government in India is challenged Parliament must be asked to accept the explanation that in accordance with deliberate policy the Government of India have been given discretion in respect of the topic in question and that for this reason the Secretary of State is not prepared to interfere with what has been settled in India. It is not part of our plan to make the official Governments in India less amenable to the control of Parliament than hitherto. It must be for Parliament itself to determine the limits which it will set to the exercise of its own powers. On the other hand, intervention by Parliament may involve intervention by the Government of India in matters which otherwise would be recognized as of provincial concern. It will be distracting both to the Government of India and the provincial Governments if the operation of this principle of discretionary delegation is left either to the idiosyncrasies of Secretaries of State, or to the disposition of party forces in Parliament. We hope therefore that Parliament will assent

to facilitate the working of our reforms by a provision authorizing the Secretary of State, by rules to be laid before Parliament, to divest himself of control of the Government of India in some specified matters even although these continue to be the concern of the official Governments, and to empower the Government of India to do likewise in relation to provincial Governments. On large matters of policy in reserved subjects there can, of course, be no question of such delegation.

Organization of the India Office.

293. It will be seen that our proposals involve material alterations in the functions of the India Office; and in conformity with these we think that its organization should be reconsidered. This obviously can best be done by a committee sitting in London for the purpose. We propose that such a committee should be appointed forthwith. Without attempting to draft the terms of the reference to it we may suggest the main principles by which its deliberations should be guided. The India Office should in future be so organized as to discharge its functions as expeditiously as possible. Knowledge is an important element in coming rapidly to a right decision; and hence it is almost as essential now as it was in 1858 that the Secretary of State should be in a position to command expert advice. It is necessary that Parliament should be satisfied, and expedient that the Government of India should be satisfied, that the decisions conveyed in orders from the India Office have been arrived at after consideration of the advice of those whose knowledge of India is greater than that of the Secretary of State. But such advice needs to be informed with recent acquaintance with a changing India; and for this reason it will probably be well to modify the present constitution of the Council of India, and to arrange if not for the recruitment of the India Office staff from the Indian Civil Service, at least for some interchange of personnel between the staff of the India Office and the public services in India. Either method would have the advantage of enabling an Indian element to be employed at the India Office otherwise than on the Council of India.

Relations of the Secretary of State with Parliament.

294. But whatever control over Indian affairs the Secretary of State keeps he keeps in the name of Parliament; and it will not suffice to improve the agent so long as his relations with his principal are not what they should be. Of all the great departments of the State the India Office is at present the least concerned with Parliament. Parliamentary control cannot in fact be called a reality. Discussion is often out of date and ill-informed; it tends to be confined to a little knot of members, and to stereotyped topics; and it is rarely followed by any decision. We fully realize the other preoccupations of Parliament, and yet we are sure that means must be found of enabling it to take a real and continuous interest in India. No one would wish matters that ought to be discussed and settled in India to be debated and decided in Parliament; but there remain large questions of policy with which only Parliament can deal.

We are anxious that Parliament should be in a position to take them up with interest and to decide them with knowledge. We have already made one important proposal—that for periodic commissions to deal with the political progress of India—which will be of value for this purpose. We will add two further suggestions. We advise that the Secretary of State's salary, like that of all other ministers of the Crown, should be defrayed from Home revenues and voted annually by Parliament. This will enable any live questions of Indian administration to be discussed by the House of Commons in Committee of Supply. On previous occasions when this proposal has been made it has encountered the objection that it would result in matters of Indian administration being treated as party questions. Without entering into speculations as to the future of parties in Parliament we do not see why this result would follow from such a debate more than from the existing debate on the budget; and in any case the proposal which we make in the next paragraph would do something to prevent it. It might be thought to follow that the whole charges of the India Office establishment should similarly be transferred to the Home Exchequer; but this matter is complicated by a series of past transactions, and by the amount of agency work which the India Office does on behalf of the Government of India; and we advise that our proposed committee upon the India Office organization should examine it and, taking these factors into consideration, determine which of the various India Office charges should be so transferred, and which can legitimately be retained as a burden on Indian revenues.

A select committee on Indian affairs.

295. But the transfer of charges which we propose, although it will give reality to the debates on Indian affairs, will not ensure in Parliament a better informed, or a more sustained, interest in India. We feel that this result can only be accomplished by appointing a select committee of Parliament on Indian affairs. We have considered whether such a committee should be drawn jointly from both Houses. But it is in the House of Commons that effective control over the Indian administration will be exercised by means of the debate on the estimates; and also it is to the House of Commons that the comments in the preceding paragraph mainly apply. We recommend therefore that the House of Commons should be asked to appoint a select committee on Indian affairs at the beginning of each session. Such a select committee would, like other select committees, exercise its powers by informing itself from time to time upon Indian questions, and by reporting to the House before the annual debate on the Indian estimates. Like other select committees it would have no administrative functions. The Secretary of State would appear before it to answer questions about those aspects of Indian administration in which he, and therefore Parliament, continued to exercise the right to interfere. Thus by means of interrogations and requisitions for papers the members of the committee would keep themselves informed upon Indian questions. To such a select committee Indian Bills might be referred after their second reading. There would

thus soon grow up a body of men in Parliament who took a continuous, and well-informed, interest in Indian questions; and by the committee's reports the House of Commons would be invited to focus their attention in the debate on the budget on matters of importance which had arisen during the year. There is, we may repeat, no inconsistency in distinguishing between the general direction, and the execution, of policy, nor in desiring at one and the same time that the directing power shall be more interested and better informed and that the executive agents shall be given a larger measure of discretion within the limits laid down for them.

Chapter X.—The Native States.

296. As we have said already it is impossible to deal with the constitutional position in British India without also considering the problems presented by the Native States. India is in fact, as well as by legal definition one geographical whole. The integral connexion of the States with the British Empire not only consists in their relations to the British Crown, but also in their growing interest in many matters common to the land to which they and the British provinces alike belong.

Introductory.

297. Although compared with the British provinces the States are thinly populated, they comprise among them some of the fairest portions of India. The striking differences in their size, importance, and geographical distribution are due partly to variations of policy, partly to historical events, which no Government could control. Wherever consolidating forces were at work before the British advance occurred we find that large units of territory were constituted into States; wherever disorder or other disintegrating factors were at work longer, as in Bombay and Central India, we find a large number of fragmentary territories. "Political, as well as physical, geography bears witness to the stress of the destructive forces through which a country has passed." The policy of the British Government towards the States has changed from time to time, passing from the original plan of non-intervention in all matters beyond its own ring-fence to the policy of "subordinate isolation" initiated by Lord Hastings; which in its turn gave way before the existing conception of the relation between the States and the Government of India, which may be described as one of union and co-operation on their part with the paramount power. In spite of the varieties and complexities of treaties, engagements, and *sanads*, the general position as regards the rights and obligations of the Native States can be summed up in a few words. The States are guaranteed security from without; the paramount power acts for them in relation to foreign powers and other States, and it intervenes when the internal peace of their territories is seriously threatened. On the other hand the States' relations to foreign powers are those of the paramount power; they share the obligation for the common defence; and they are under a general responsibility for the good government and welfare of their territories.

Position of the States.

298. Now let us consider what factors have been at work to bring the Ruling Princes into closer relations with the Government of India. Foremost is the war. No words of ours are needed to make known the services to the Empire which the States have rendered. They were a profound surprise and disappointment to the enemy; and a cause of delight and pride to those who knew beforehand the Princes' devotion to the Crown. With

Effects of the war.

one accord the Rulers of the Native States in India rallied to fight for the Empire when war was declared; they offered their personal services, and the resources of their States. Imperial Service Troops from over a score of States have fought in various fields, and many with great gallantry and honour. The Princes have helped lavishly with men and horses, material and money, and some of them have in person served in France and elsewhere. They have shown that our quarrel is their quarrel; and they have both learned and taught the lesson of their own indissoluble connexion with the Empire, and their immense value as part of the polity of India.

Points of contact.

299. For many years, however, influences more persistent, though less forceful, than war have been at work to increase the range of matters in which the States realize their solidarity with British India. A perceptible process of infiltration has been going on. We have helped the States in times of famine; we have lent them officers trained in British India to revise or supervise their revenue or financial administration, or to improve their agriculture and irrigation. Many of them have adopted our civil and criminal codes. Some have imitated, and even further extended, our educational system. Co-operation in matters of police and justice has been developed. Our railway and telegraph systems have been carried through and serve many of the States. The Indian customs tariff is a matter of concern to all States, including those which have ports of their own. It is, of course, true that external influences have not affected the States equally. They have not all been equally able to assimilate new principles. They are in all stages of development, patriarchal, feudal, or more advanced, while in a few States are found the beginnings of representative institutions. The characteristic features of all of them, however, including the most advanced, are the personal rule of the Prince and his control over legislation and the administration of justice. Nor have any changes which have occurred in the least impaired the validity of the treaties which assured to the States their powers of internal administration. Indeed it may be said that in a composite society like India's, and in times when ideas are changing rapidly, the existence of States in which ideals of chivalry and personal devotion survive as the motive principle of government has been the more clearly seen to have an abiding value. The independence of the States in matters of internal administration carries with it the counter-obligation of non-interference in British Indian affairs. If the Princes were to intervene, either informally or formally, in the internal affairs of British India, such action would, we think, be reasonably questioned, unless the representatives of British India were given a corresponding right of influencing the affairs of the States. On either hand, we believe, there is no desire to cross the frontier. Rulers and politicians alike recognize that they are best employed in attending to their own progress. The obligation of mutual abstention must be always borne in mind in estimating the future position of the Native States in a changing Indian Empire.

300. We know that the States cannot be unaffected by constitutional development in adjoining provinces. Some of the more enlightened and thoughtful of the Princes, among whom are included some of the best-known names, have realized this truth, and have themselves raised the question of their own share in any scheme of reform. Others of the Princes—again including some of the most honoured names—desire only to leave matters as they are. We feel the need for caution in this matter. It would be a strange reward for loyalty and devotion to force new ideas upon those who did not desire them; but it would be no less strange if, out of consideration for those who perhaps represent gradually vanishing ideas, we were to refuse to consider the suggestions of others who have been no less loyal and devoted. Looking ahead to the future we can picture India to ourselves only as presenting the external semblance of some form of 'federation'. The provinces will ultimately become self-governing units, held together by the central Government, which will deal solely with matters of common concern to all of them. But the matters common to the British provinces are also to a great extent those in which the Native States are interested—defence, tariffs, exchange, opium, salt, railways, and posts and telegraphs. The gradual concentration of the Government of India upon such matters will therefore make it easier for the States, while retaining the autonomy which they cherish in internal matters, to enter into closer association with the central Government if they wish to do so. But, though we have no hesitation in forecasting such a development as possible, the last thing that we desire is to attempt to force the pace. Influences are at work which need no artificial stimulation. All that we need or can do is to open the door to the natural developments of the future.

Modern influences.

301. In this respect the trend of recent events has helped. The desire to give greater reality to the consciousness of common interests is stirring among the Princes, and it is now possible and desirable to turn it to more practical account than our predecessors were able to do. Lord Lytton's proposal to constitute an Imperial Privy Council which should comprise some of the great Princes resulted only in the ephemeral and purely honorific body known as the Councillors of the Empress. Lord Dufferin's institution of Imperial Service Troops was of much greater value in giving actual and useful expression to the feeling of community of interests. Lord Curzon's plan for a Council of Ruling Princes and Lord Minto's schemes, first for an Imperial Advisory Council and then for an Imperial Council of Ruling Princes, were suggestions only a little in advance of the time. The idea which attracted his two predecessors gained fresh life as a result of the conferences which Lord Hardinge held with the Princes to consider questions of higher education in the States. Lord Hardinge made no secret of his desire to seek the collective opinion of the Princes as trusted colleagues whenever possible on matters affecting their Order; and in responding to His Excellency's invitation Their Highnesses the Maharajas of Gwalior and Indore also

Evolution of the Chiefs' Conference.

laid stress upon the essential identity of interest between the two halves of India. Lord Chelmsford carried the system of conferences further by utilizing them for the purpose of discussing general questions affecting the States as a whole; and His Highness the Gaekwar in welcoming the new development expressed the hope that what had by that time become an annual conference would develop into a permanent Council or Assembly of Princes. Moreover, only last year the claim of the States to be heard in matters of Imperial concern were signally recognized by the deputation of His Highness the Maharaja of Bikaner to the meeting of the Imperial Conference and the War Cabinet.

Effect of British policy. The term "Native States".

302. In view of the fact that constitutional changes in British India may react in an important manner on the Native States we have carefully considered their present relations with the Government of India. We became aware at the outset that, although the policy which has been followed for more than a century towards the States has been amply vindicated by the trust and confidence which the Princes as a body repose in the British Government, yet in some quarters uncertainty and uneasiness undoubtedly exist. Some Rulers are perturbed by a feeling that the measure of sovereignty and independence guaranteed to them by the British Government has not been accorded in full, and they are apprehensive lest in process of time their individual rights and privileges may be whittled away. We ascribe this feeling to two causes. In the first place, the expression "Native States" is applied now, and has been applied during the past century, to a collection of about seven hundred rulerships which exhibit widely differing characteristics, which range from States with full autonomy over their internal affairs to States in which Government exercises, through its agents, large powers of internal control, and even down to the owners of a few acres of land. Uniformity of terminology tends to obscure distinctions of status; and practice appropriate in the case of the lesser Chiefs may be inadvertently applied to the greater ones also. We are convinced that it would improve and assist future relations between the Crown and the States if a definite line could be drawn separating the Rulers who enjoy full powers of internal administration from the others. Our own proposals in paragraphs 306 to 311, *infra*, assume that such classification can, and will, after due inquiry, be effected, and are intended to relate only to States of the former class.

Government intervention.

303. In the second place, we cannot disregard the fact that the general clause which occurs in many of the treaties to the effect that the Chief shall remain absolute Ruler of his country has not in the past precluded, and does not even now preclude, "interference with the administration by Government through the agency of its representatives at the Native Courts". We need hardly say that such interference has not been employed in wanton disregard of treaty obligations. During the earlier days of our intimate relations with the States British agents found themselves compelled, often against their will, to assume responsibility for the welfare of a

people, to restore order from chaos, to prevent inhuman practices, and to guide the hands of a weak or incompetent Ruler as the only alternative to the termination of his rule. So, too, at the present day, the Government of India acknowledges, as trustee, a responsibility (which the Princes themselves desire to maintain) for the proper administration of States during a minority, and also an obligation for the prevention or correction of flagrant misgovernment.

Interpretation of treaties.

304. Moreover, we find that the position hitherto taken up by Government has been that the conditions under which some of the treaties were executed have undergone material changes, and the literal fulfilment of particular obligations which they impose has become impracticable. Practice has been based on the theory that treaties must be read as a whole, and that they must be interpreted in the light of the relations established between the parties not only at the time when a particular treaty was made, but subsequently. The result is that there has grown up around the treaties a body of case-law which anyone who is anxious to appreciate the precise nature of existing relations must explore in Government archives and in text-books. The Princes, viewing the application of this case-law to their individual relations with Government, are uneasy as to its ultimate effect. They fear that usage and precedent may be exercising a levelling and corroding influence upon the treaty rights of individual States.

Need for re-examination of the position.

305. It is thus clear that some ambiguity and misunderstanding exist as to the exact position. The Government of India has already taken cognizance of this, and is affording opportunity for the verification of any specific complaints that may be made. We do not desire to say anything that might prejudice the issue of these inquiries. In the meanwhile, however, we suggest that the time has come when it would be well to review the situation, of course only by consent of parties, not necessarily with a view to any change of policy, but in order to simplify, standardize, and codify existing practice for the future. Before we pass on to state our own proposals we wish to say that we think that the Princes should be assured in the fullest and freest mannner that no constitutional changes which may take place will impair the rights, dignities, and privileges secured to them by treaties, *sanads*, and engagements, or by established practice.

A Council of Princes.

306. We have explained how, on various occasions in recent years, the Princes have met in conference at the invitation of the Viceroy. These conferences have been of great value in assisting in the formulation of the Government's policy on important matters like minority administration and succession, and promoting interest in such questions as scientific agriculture and commercial and agricultural statistics. The meetings have given the Princes the opportunity of informing the Government as to their sentiments and wishes, of broadening their outlook, and of conferring with one another, and with the Government. But although the

meetings have in the last few years been regular they depend upon the invitation of the Viceroy; and our first proposal is to replace them by the institution of a Council of Princes. We wish to call into existence a permanent consultative body. There are questions which affect the States generally, and other questions which are of concern either to the Empire as a whole, or to British India and the States in common, upon which we conceive that the opinion of such a body would be of the utmost value. The Viceroy would refer such questions to the council, and we should have the advantage of their considered opinion. We think it is all-important that the meetings should be regular, and that ordinarily the council should meet once a year to discuss agenda approved by the Viceroy. Any member of the council, or the council as a whole, might request the Viceroy to include in the agenda any subject on which discussion was desired. If questions of sufficient importance arose in the intervals between the annual meetings the Princes might suggest to the Viceroy that an extraordinary meeting should be held. We contemplate that the Viceroy should be president, and should as a rule preside, but that in his absence one of the Princes should be chairman. The rules of business would be framed by the Viceroy, after consultation with the Princes, who might perhaps from time to time suggest modifications in the rules. We believe that most of the Princes desire to see such a council created, although some of the most eminent among them have not taken part in the conferences in 1916 and 1917. The direct transaction of business between the Government of India and any State would, of course, not be affected by the institution of the council. We have used the name "Council of Princes" to describe the body which we desire to see instituted. We have had difficulty, however, in finding a name appropriate to such a unique assembly. We wish to avoid a designation associated with other institutions, and to find one which will connote the real position of this body of Rulers, with the representative of the King-Emperor as chairman. From both these points of view the terms Council, or Chamber, or House of Princes, are open to criticism. There is much to be said in favour of an Indian name for an Indian body which, from the circumstances of the case, would exist nowhere else; but it would be necessary to choose one not peculiarly associated historically either with Hindus or with Muhammadans. While therefore we have adopted the term Council for temporary purposes we hope that discussion may produce some happier alternative.

Standing committee of the council.

307. It has been represented to us that difficulties have occurred in the past by reason of the fact that the Political Department comes to decisions affecting the Native States without being in a position to avail itself of the advice of those who are in a position to know from their own personal experience or the history of their States the right course to pursue. On matters of custom and usage in particular we feel that such advice would be of great value, and would help to ensure sound decisions. Our second proposal therefore is that the Council of

Princes should be invited annually to appoint a small standing committee, to which the Viceroy or the Political Department might refer such matters. We need hardly say that no reference affecting any individual State would be made to the committee without the concurrence of its Ruler. The Council of Princes might appoint to the standing committee not only Princes, but also Dewans or Ministers, who were willing to place their services at the disposal of the Viceroy when called upon for advice. This machinery is based on the principle of consultation which in so many matters underlies our recommendations in regard to British India.

Commissions of inquiry into disputes.

308. Our next proposal is concerned with disputes which may arise between two or more States, or between a State and a local Government or the Government of India, and with a situation caused when a State is dissatisfied with the ruling of the Government of India or the advice of any of its local representatives. In such cases there exists at the present moment no satisfactory method of obtaining an exhaustive and judicial inquiry into the issues, such as might satisfy the States, particularly in cases where the Government of India itself is involved, that the issues have been considered in an independent and impartial manner. Whenever, therefore, in such cases the Viceroy felt that such an inquiry was desirable we recommend that he should appoint a commission, on which both parties would be represented, to inquire into the matter in dispute and to report its conclusions to him. If the Viceroy were unable to accept the finding the matter would be referred for decision by the Secretary of State. The commission that we have in mind would be composed of a judicial officer of rank not lower than a high court judge and one nominee of each of the parties concerned.

And into cases of misconduct.

309. In another class of cases we have a similar proposal to make. It has happened, and we conceive that it may happen though rarely in the future, that the question arises of depriving the Ruler of a State of his rights, dignities, and powers, or of debarring from succession a member of his family. If such cases occur in the future we think that they should be always referred to a commission to be appointed by the Viceroy to advise him. It should consist of five members, including ordinarily a high court judge and two Ruling Princes. The names of the commissioners should be intimated in advance to the defendant before they were appointed; and the proceedings of the commission should be made public only if the defendant so desired.

Relations with the Government of India.

310. Our two remaining proposals bear a direct relation to our constitutional scheme for British India. We recommend that as a general principle all important States should be placed in direct political relations with the Government of India. We feel that the necessity of communicating with the central Government through two, or even more, intermediaries is an obstruction to good understanding

and a great obstacle to business. The present position is that, while four large States and one small State deal directly with the Government of India through their Resident, there are in the Central India Agency some 150 States and in the Rajputana Agency some 20 States and in Baluchistan 2 States under the Agents to the Governor General. The remaining States are in political relations with local Governments. Madras deals with 5 States; Bombay with over 350; Bengal with 2; the United Provinces with 3; the Punjab with 34; Burma with 52; Bihar and Orissa with 26; the Central Provinces with 15; and Assam with 16. We have already laid stress in our report upon the need in domestic affairs for dividing matters of all-Indian from those of provincial, concern. Now on general grounds the relations between the States and Government are clearly a matter for the central Government; and where this principle has been departed from it has been on grounds of history or convenience. It seems to us that the changing conditions of the time afford strong reason for affirming the principle, both because the institution of a Council of Princes will give greater solidarity to the views of the States, and also because the growth of responsibility in provincial Governments will to some extent unfit them to act in political matters as mere agents for the Government of India. There will, we recognize, be difficulty in some cases where the territories of the States and British provinces intersect, but such obstacles are not insurmountable. As a general principle, therefore, we recommend that all important States should be placed in direct political relations with the central Government. We do not intend, of course, that the Durbars should write direct to the Political Secretary, but that there should, wherever possible, be only one political officer through whom the State would correspond with the Government of India. This is already the case with the States of Hyderabad, Baroda, Mysore, and Kashmir. In other cases, it will be necessary to revise the existing arrangements by which correspondence passes through a local Political Agent or Resident to an Agent to the Governor General or a local Government and thence to the Government of India. Where the authority immediately subordinate to the Government of India is an Agent to the Governor General the choice lies generally between abolishing the offices of local Political Agents or Residents, while transferring their functions to the Agent to the Governor General, with an increased staff of assistants, and abolishing the post of Agent to the Governor General, while retaining Residents accredited to States, or groups of States. In other cases, instead of abolishing either the Agent to the Governor General or the Resident, where both officers exist, the Residents of particular States might be allowed to communicate direct with the Government of India, sending a copy of such communications to the Agent to the Governor General for his information. The future position of other States which are now in relation with provincial Governments cannot be determined immediately since both the wishes of the Durbars, and also the administrative advantages, must be considered. It may be that the Government of India will assume direct

relations with these States, or that they may be left for the time being in relation with the provincial Governments; but in the latter case it seems to us that the head of the province should in each case act in his relations with the States as agent for the central Government, and that relations with the Native States should not be matters of provincial concern in the sense that they are intended ever to be transferred to the control of the legislative council.

Joint deliberation on matters of common interest.

311. Our last proposal is intended to provide some means of deliberation between the Government of India and the Princes on matters of common interest to both, and so to ensure that as far as possible decisions affecting India as a whole shall be reached after the views of the Durbars have been taken into account. In the past it certainly has occasionally happened that the States were vitally affected by decisions taken without reference to them; and yet no machinery for such collective consultation with them has hitherto existed. It seems to us that they have a clear right to ask for it in the future. We have abandoned for the present all consideration of suggestions that the Ruling Princes, or some representatives of their Order. should be members of the Council of State. Not only would this at the present stage infringe the doctrine of non-interference on the part of the Princes in the affairs of British India, but we are satisfied that few, if any, of the Princes themselves are ready for such a step. On the other hand, it seems to us that, when a Council of Princes has been established, and when a Council of State and a Privy Council have been created, the machinery will exist for bringing the senatorial institutions of British India into closer relations when necessary with the Rulers of the Native States. Matters affecting the Native States generally, or the Native States and British India in common, or the Empire. might, as we have seen, be referred to the Council of Princes. It would thus be possible for the Viceroy, when he thought fit, to arrange for joint deliberation and discussion between the Council of State and the Council of Princes, or between representatives of each body. He might also invite members of the Council of Princes to serve on committees of the Privy Council.

Future position of the States.

312. With these indications of the position to be occupied by the Native States in future we may rest content. We believe that the trend of events must draw them still closer into the orbit of the Empire; we think that the process need give rise to no alarm lest their internal autonomy be threatened. We need not conceal our conviction that the processes at work in British India cannot leave the States untouched and must in time affect even those whose ideas and institutions are of the most conservative and feudal character. But in that respect there can be no intention or desire to accelerate growth by artificial means. We believe that our proposals will afford satisfaction to the progressive Rulers, while respecting the legitimate desire of those less advanced to go forward at their own pace.

Chapter XI.—Miscellaneous.

(*i*) The Public Services.

The case for increasing the Indian element.

313. In the forefront of the announcement of August 20 the policy of the increasing association of Indians in every branch of the administration was definitely placed. It has not been necessary for us—nor indeed would it have been possible—to go into this large question in detail in the time available for our inquiry. We have already seen that Lord Hardinge's Government were anxious to increase the number of Indians in the public services, and that a Royal Commission was appointed in 1912 to examine and report on the existing limitations in the employment of Indians. The Commission made an exhaustive inquiry into the whole subject, in the course of which it visited every province in India, and its report is now being examined by the Government of India and the local Governments with a view to formulating their recommendations with all possible despatch. The report must form the basis of the action now to be taken, but in view of the altered circumstances we think that it will be necessary to amplify its conclusions in some important respects. The report was signed only a few months after the outbreak of the war and its publication was deferred in the hope that the war would not be prolonged. When written it might have satisfied moderate Indian opinion, but when published two years later it was criticized as wholly disappointing. Our inquiry has since given us ample opportunity of judging the importance which Indian opinion attaches to this question. While we take account of this attitude a factor which carries more weight with us is that since the report was signed an entirely new policy towards Indian government has been adopted, which must be very largely dependent for success on the extent to which it is found possible to introduce Indians into every branch of the administration. It is a great weakness of public life in India to-day that it contains so few men who have found opportunity for practical experience of the problems of administration. Although there are distinguished exceptions, principally among the Dewans of Native States, most Indian public men have not had an opportunity of grappling with the difficulties of administration, nor of testing their theories by putting them into practice. Administrative experience not only sobers the judgment and teaches appreciation of the practical difficulties in the way of the wholesale introduction of reforms, however attractive, and the attainment of theoretical ideals, but by training an increasing number of men in the details of day-to-day business it will eventually provide India with public men versed in the whole art of government. If responsible government is to be established in India there will be a far greater need than is even dreamt of at present for persons to take part in public affairs in the legislative

assemblies and elsewhere; and for this reason the more Indians we can employ in the public services the better. Moreover it would lessen the burden of Imperial responsibilities if a body of capable Indian administrators could be produced. We regard it as necessary therefore that recruitment of a largely increased proportion of Indians should be begun at once. The personnel of a service cannot be altered in a day: it must be a long and steady process; if therefore, the services are to be substantially Indian in personnel by the time that India is ripe for responsible government no time should be lost in increasing the proportion of Indian recruits.

Limitations to this process.

314. At the same time we must take note of certain limitations to the policy of change. The characteristics which we have learned to associate with the Indian public services must as far as possible be maintained; and the leaven of officers possessed of them should be strong enough to assure and develop them in the service as a whole. The qualities of courage, leadership, decision, fixity of purpose, detached judgment, and integrity in her public servants will be as necessary as ever to India. There must be no such sudden swamping of any service with any new element that its whole character suffers a rapid alteration. As practical men we must also recognize that there are essential differences between the various services and that it is possible to increase the employment of Indians in some more than in others. The solution lies therefore in recruiting year by year such a number of Indians as the existing members of the service will be able to train in an adequate manner and to inspire with the spirit of the whole. Again it is important that there should be so far as possible an even distribution of Europeans and Indians, not indeed between one service and another, but at least between the different grades of the same service. Apart from other considerations this is a reason for exercising caution in filling up the large number of vacancies which have resulted from short recruitment during the last four years. We must also remember how greatly conditions vary between the provinces. In arriving at any percentage to be applied to certain services we should take into account the fact that in some provinces the admissible percentage will probably be much lower than what seems possible for the service as a whole, with the result that the percentage in other provinces must be much higher. If the Indian Civil Service be taken as an example, and if, for the sake of argument, the recommendation of the Commission is accepted that recruitment for 25 per cent of the superior posts be made in India, then to attain an all-round percentage of 25, the proportion in say Bombay, Bengal and Madras will have to be considerably more than 25 per cent, because in Burma certainly and probably also in the Punjab it will be much less. Indeed it seems self-evident that the actual percentage for the whole of a service can only be worked out with special regard to the conditions of each province. Lastly it would be unwise to create a demand in excess of the supply. At present the number of candidates of higher quality than those who are now forthcoming for the provincial services is strictly

limited, and though the opening of the more attractive services may be expected to stimulate the supply, it will still be necessary, if the present quality of the services is not to be unduly impaired, to take special steps to see that recruits are of a satisfactory standard.

Removal of racial distinctions.

315. Subject to these governing conditions we will now put forward certain principles on which we suggest that the action to be taken should be based. First, we would remove from the regulations the few remaining distinctions that are based on race, and would make appointments to all branches of the public service without racial discrimination.

Institution of recruitment in India.

316. Next, we consider that for all the public services, for which there is recruitment in England open to Europeans and Indians alike, there must be a system of appointment in India. It is obvious that we cannot rely on the present method of recruitment in England to supply a sufficiency of Indian candidates. That system must be supplemented in some way or other; and we propose to supplement it by fixing a definite percentage of recruitment to be made in India. This seems to us to be the only practical method of obtaining the increased Indian element in the services which we desire. We do not suggest that it will be possible to dispense with training in Europe for some of the principal services. It will be necessary to make arrangements to send for training in England the candidates selected in India, but as to this we anticipate no difficulty.

Percentage of appointments to be made in India.

317. We have not been able to examine the question of the percentage of recruitment to be made in India for any service other than the Indian Civil Service. The Commission recommended that 25 per cent of the superior posts of that service should be recruited for in India. We consider that changed conditions warrant some increase in that proportion, and we suggest that 33 per cent of the superior posts should be recruited for in India, and that this percentage should be increased by 1½ per cent annually until the periodic commission is appointed which will re-examine the whole subject. We prefer this proposal to the possible alternative of fixing a somewhat higher percentage at once and of making no increase to it until the periodic commission which we propose has reported. We cannot at present foresee the reorganization that may take place in the Indian Civil Service as a result of new conditions. For this reason we think it unwise to aim at attaining any definite percentages after a specified time. We prefer to fix a percentage applicable to present conditions and to commit ourselves only to a growing proportion, which will be subject to reconsideration and revision by the Commission.

We have dealt only with the Indian Civil Service, but our intention is that there should be in all other services now recruited from England a fixed percentage of recruitment in India increasing

annually. The percentage will not be uniform for all services as the particular figures must depend upon their distinctive characters and functions.

Improvement in the conditions of the European services.

318. The restriction of the number of Europeans in the services, and the constitutional changes taken together will make it absolutely necessary for India to secure the very best type of European officers that she can get. We are therefore anxious that the present opportunity should be taken to do something towards restoring the real pay of the existing services to the level which proved attractive twenty years ago. We recognize and we regret that the improvement of the conditions of the European services in India has encountered opposition from Indians. We hope and believe that if proposals for such improvement are accompanied by increased opportunities being given to Indians in the services this opposition will cease. But in any case we feel that it is necessary to do something substantial in order to improve the conditions of service and to secure the European recruitment which we regard as essential.

Pay.

319. Though we cannot review the scales of pay of all the Indian services in detail, we think it important to remember that whatever causes of complaint the Public Services Commission found to exist have been since aggravated by three years of war. Although we prefer not to make specific recommendations, because we have not been able to go into such questions in detail, we recognize that in the case of certain services in particular the need for improving the terms of service is specially strong. The remedies proposed by the Commission were generally an incremental scale of pay, and improvements in the calculations on which recruitment is based. We approve generally of these proposals but consider that they fall short of a complete remedy, because errors in recruitment continue to bear fruit for thirty years or more; and also because in some cases the recommendations of the Commission do not provide adequately for the occasions when an officer may be blocked for an undue period, through no fault of his own, in getting a superior post. In such cases, they propose to give temporary allowances, leaving the emoluments drawn by an officer in the latter half of his career still dependent upon the date when a superior vacancy presents itself, or in other words on the fulfilment in practice of actuarial calculations. But it is a recognized principle that after spending a certain number of years in an inferior appointment, an officer should have the expectation of acting with at least practical continuity in a superior post; and there is a very natural and legitimate desire in the service to see their conditions of service brought into some exact relation with this principle. We should prefer therefore to see the junior incremental scale continued until the senior post is actually attained, and to provide that the higher responsibility of the senior post should be marked by the grant of an additional allowance over and above the time-scale. This should not, of course, prevent the increments

of any officer adjudged unfit for a superior post being stopped at any particular point in the junior time-scale.

Pensions.

320. We have some reason to believe, however, that the conditions of pension and leave affect the well-being of the services almost as much as pay. In respect of pensions we have to distinguish between the Indian Civil Service, with its sterling annuity to which the officers themselves contribute, and all other services. In the latter a non-contributory pension is given, based upon the amount of pay, but subjected in most services to an arbitrary maximum of ₨5,000 a year, which in the case of the holders of certain special posts is raised to ₨6,000. The Commission recommend the raising of the normal limit of pensions to ₨6,000 and the grant of additional pensions for a few high appointments. In view of financial exigencies we are prepared to adopt this limit of ₨6,000 for the time being on the understanding that the rate of exchange applied remains at 1*s.* 9*d.*; and the Government of India have under consideration proposals with regard to the holders of the special high appointments, which are somewhat more liberal than those of the Commission. In the case of the Civil Service we agree that the pension should like that of other services, be made non-contributory. We think that the present 4 per cent. contribution should be retained, but funded for the benefit of the individual. We also suggest that it should be considered whether the system of fixed annuities should not be replaced by one of pensions varying with length of service in accordance with the usual practice.

Leave.

321. We are also convinced that the present leave rules must be made much more elastic. They are defective inasmuch as they allow excessive periods of leave and allowances so inadequate that officers cannot possibly afford to take the amount of leave admissible. The Commission proposed to allow the commutation of a period of leave on half-pay to a shorter period on full pay. Without committing ourselves to details we regard the principle of this proposal as sound, and think that either double furlough allowance or full pay should be allowed for reduced periods of leave. We agree also that the Commission's recommendation for the accumulation of privilege leave up to four months should receive favourable consideration.

Expatriation allowances.

322. There is one more general question of some importance. It is desirable if possible to avoid the differentiation maintained at present in many cases between the rates of pay drawn by European and Indian officers in the same service. We think that the standard scales for all services should be fixed with reference to Indians recruited in India at rates sufficient to attract the best men available and to give them an income appropriate to their position. For persons recruited by reason of special qualifications obtained in Europe an extra allowance should be given to compensate them for the drawbacks and expenses of expatriation. The same principle should be applied to Indians serving in England. It may seem inconsistent

that Indians recruited in Europe should be given the same allowance as Europeans; but this is the present practice in the Indian Civil Service, and as a general proposition we suggest that when a man has been recruited by reason of special qualifications obtained in Europe, he should receive the higher rate. At the same time we are not prepared to say that this principle should be regarded as of universal application.

Future position of the European services.

323. We have already touched more than once on the question of the future of the European services in India; but the importance of the subject justifies us in returning to it. Do the changes which we propose point to the gradual, possibly the rapid, extrusion of the Englishman with all the consequences that may follow therefrom? Is it conceivable that India's only surviving connexion with the Empire will be found in the presence of British troops for the purpose of defending her borders? We may say at once that the last contingency cannot be contemplated. We cannot imagine that Indian self-respect or British common sense would assent for a moment to such a proposition. At least so long as the Empire is charged with the defence of India, a substantial element of Englishmen must remain and must be secured both in her Government and in her public services. But that is not the practical or the immediate question before us. What we have had to bear in mind—how our reforms may react on the position and the numbers of Europeans in the Indian services. We are making over certain functions to popular control, and in respect of these—and they will be an increasing number—English commissioners, magistrates, doctors and engineers will be required to carry out the policy of Indian ministers. Simultaneously we are opening the door of the services more widely to Indians and thereby necessarily affecting the cohesion of the service. Some people have been so much impressed by the undoubted difference of view between the services and educated Indians, and by the anticipated effects of a larger Indian element in the services that they apprehend that this may result in increasing pressure to get rid of Englishmen, and increasing reluctance on the part of Englishmen to give their further services to India under the new conditions. This danger is one which we have anxiously considered. We are certain that the English members of the services will continue to be as necessary as ever to India. They may be diminished in numbers; but they must not fall off in quality. Higher qualifications than ever will be required of them if they are to help India along her difficult journey to self-government. We have therefore taken thought to improve the conditions of the services, and to secure them from attack. But we sincerely hope that our protection will not be needed. There was a time in Indian politics when service opinion and Indian opinion often found themselves in alliance against other points of view. Our reforms will, we believe, do away with the factors which worked a change in those relations. With the removal of disabilities, and the opening of opportunity

there is no reason why relations between educated Indians and the services should not improve. In the reservations which we propose there is nothing to arouse hostility. No reasonable man should cavil at safeguards which are imposed in order to gain time for processes of growth to occur. If our own judgment has been too cautious we have provided means for correcting it, and of adjusting future progress to the results attained.

Work awaiting the English official.

324. We believe then that, so far in the future as any man can foresee, a strong element of Europeans will be required in India's public service. Indeed we go further; we think that with the new political and economic development on which she is entering there will be wholly fresh opportunities for helping her with the services of men who have known the problems of government in other parts of the Empire, or who have special knowledge of technical science. It may conceivably be that the utilities of the European official in India will gradually undergo a change; that instead of continuing to the same degree as now as the executive agency of Government he will stand aside more from the work of carrying out orders and assume the position of a skilled consultant, a technical adviser and an inspecting and reporting officer. To attempt to forecast the future organization and disposition of the services would be idle. These matters will settle themselves in the course of political evolution. But we can see no reason for alarm. Our policy is irrevocably declared and it ought to content all sober minds. We are no longer seeking to govern a subject race by means of the services; we are seeking to make the Indian people self-governing. To this end we believe that the continued presence of the English officer is vital, and we intend to act on that belief. So long as Indians are employed in increasing numbers wherever they are fit, there can be no just complaint of the retention of the Englishman; if that condition is not fulfilled there is an appeal to the periodic commission. It will henceforth be accepted as the duty of the European officers in the service of India to do all that lies in their power to fit Indians to take their places beside them. Actual progress will always depend on questions of personal qualities which we can only leave to the decision of time. But we may be content to have removed causes of complaint, and to have called forth the forces of better understanding and mutual respect to which we must look for equilibrium.

Protection of service interests.

325. On more than one occasion we have declared our intention to protect the interests of the services if necessary; and it may be well to make it clear what we mean by this phrase. The question of methods depends on a number of Acts and rules and regulations, for which reason we reserve it for detailed consideration hereafter in connexion with the question of demarcating functions and powers. But our purpose is that any public servant whatever the Government under which he is employed shall be properly supported and protected in the legitimate exercise of his functions;

and that any rights and privileges guaranteed or implied in the conditions of his appointment shall be secured to him. No changes that will occur can be allowed to impair the power of the Government of India or of the Governor in Council to secure these essential requirements.

The Indian Civil Service.

326. Of the Indian Civil Service in particular we have something further to say. Its past record we might well leave to speak for itself. But all the more because of the vehement and sometimes malignant abuse to which the service is exposed, it is not out of place to pay our tribute to energies finely dedicated to the well-being of India. This abuse is partly due to the fact that on the personnel of the service, which is at once the parent and the mainstay of the existing system, has fallen much of the odium which would more justly be directed against the impersonal system itself. Partly it is due also, we think, to the tradition of the service, dating from days when it had no vocal criticism to meet, which imposes silence on the individual officer while the order of things that he represents is attacked and calumniated. Now the position of the Indian Civil Servant, as we have already said, is not analogous to that of the civil servant at Home. He takes his place in the legislative and executive councils; he assists in the formulation of policy. But when his doings are attacked he remains except for a few official and rather formal spokesmen in the legislative councils mute. This gives him in the eyes of educated Indians a certain intangible superiority of position, a cold invulnerability, which makes sympathetic relations between them impossible. We do not think this condition of silence can altogether be maintained. With coming changes there must be a greater liberty of action to the European public servant in India to defend his position when attacked. He ought not to leave the task of political education solely to the politicians. He also must explain and persuade, and argue and refute. We believe he will do it quite effectively. The matter is however by no means free from difficulty; there are obvious limitations to the discretion which can be granted; and these will be considered by the Government of India.

Its future opportunities.

327. The changing times cannot we know be altogether agreeable to many men who have grown up in the older tradition which made them the protectors and governors of the people. But those who think that the opportunity of the Indian Civil Service is over are mistaken. Life will indeed be more difficult; it will not be less worthy. It is harder to convince than to direct; to prevail in consultation than to enforce an order. But can there be a higher calling for the service than to train in the years that are to come men who are to relieve them of much of their burden? The service has a fine administrative record: but the increasing sharing of responsibility is a higher order of work than administration. We regard it as a libel on the Indian Civil Service as a body to say that they have resisted or will resist the policy announced last August. They have welcomed it because

no one knew better than they how badly a declaration of policy was needed and they will carry it out with determination just as they have always carried out the policy laid down for them. In the attainment of self-government in provincial affairs no body of men can give greater assistance than the Indian Civil Service. But they will ask and with justice that in the discharge of the functions for which they remain responsible during the period of transition, and of which the first and most important is the maintenance of law and order in their charges, they shall have the support of their superiors and of those at Home. Even this responsibility, however, must be discharged under new conditions. The changes which we contemplate will of course go further than the legislative councils in which they will be seen in their most prominent expression. They will react on the district administration and on the relations between official and non-official. In future there must be more partnership, which means for the official extra work, explanations, consultations and attempts to carry with him those who will one day do the work themselves. It is a task that will, we believe, add to the repute of the service; but what will be a matter of more satisfaction to that body is that it will improve relations with educated Indians.

(*ii*) The Army.

Indian wishes.

328. If our general policy demands that the Indian element in the civil services of the country should be increased it involves some change also in our military policy. For some years Indian politicians have been urging the right of Indians in general to bear arms in defence of their country. This demand has become much more insistent since the outbreak of war, and there has been a tendency to ascribe the difficulties of the Empire to the short-sightedness of the Government which had consistently refused to afford military training to the Indian people. The argument is that if the Government had only conceded this demand, it would have had by now at its disposal millions of trained men, who would long ago have turned the scale in favour of the Allies. We need not pause to emphasize the very practical limitations which the actual conditions of India impose on a policy of military expansion. They cannot, we think, be unknown to some speakers who have ignored them. We need only say that we have everywhere met a general demand from the political leaders for extended opportunities of military service. It is impossible to deal with this large question in connexion with our present proposals. The war is not yet over. It has reached a stage when India must put forth her whole strength in the struggle. This is recognized in India, and the Government of India is anxiously devoting its attention to the best means of putting forth the maximum strength of the country with the co-operation of the Indian people. The requirements of the future will very largely depend on the form of peace which is attained. We therefore leave this question for consideration hereafter, but with the note that it must be faced and settled.

329. Closely connected with it, however, is another question which demands immediate consideration—the recognition of the brilliant and devoted services of the Indian army in the various theatres of war. Not a little has been done already to mark these services. The pay of Indian officers and non-commissioned officers has been substantially increased; and special increases of pay have been granted to all Indian troops and followers on active service, amounting to 25 per cent in the case of those serving in Europe; and special rates of pay have been given to Indian troops when employed on active service on work requiring skilled knowledge. The rates of *batta* allowed on field service have also been raised and for the first time made admissible to silladar cavalry. Special measures have been taken to ensure the prompt payment of separation allowances and to expedite the settlement of accounts generally. The grant of free rations, which in the case of Indian ranks was formerly restricted to those serving in the field, has now been extended to all combatants serving in India, a concession of which the value is equal to an increase of over 30 per cent in the sepoy's pay; while General Officers Commanding have been authorized to increase combatants' rations in special circumstances. Injury pensions have been increased in the case of dafadars, havildars, sowars and sepoys, and the ordinary retiring and special pensions admissible to Indian officers and men of the Indian army have been substantially improved. At the same time provision has been made for the grant of disability pensions to Indian combatant ranks who have become unfit for further service owing to illness or incapacity which, though not contracted on, or solely attributable to field service, has been so aggravated by the exigencies of such service as to necessitate invaliding from the army. The housing of Indian officers and troops is being greatly improved and arrangements have been made to enable Indian soldiers and their families to travel in greater comfort and in certain cases at State expense. The medical department has not been forgotten. The Indian Subordinate Medical Department has been made more attractive by a considerable increase in the rates of pay of sub-assistant surgeons, by increases in their field allowances and the grant of certain charge allowances, and in other ways. Conditions of service in the army bearer corps have also been greatly improved. The provisions of the Indian Soldiers (Litigation) Act, 1915, protect from civil and revenue litigation all Indian soldiers while they are unable to attend to their affairs owing to the war, and the Indian Army (Suspension of Sentences) Act, 1917, provides that in certain circumstances an Indian soldier sentenced by a court-martial may be allowed to rejoin military service in a corps or department other than his own, while the sentence of the court remains in abeyance. This affords a soldier a chance to retrieve his character by uniform good conduct. For the first time the most honoured decoration in the army has been awarded to Indian troops. Indian officers and sub-assistant surgeons have also been declared eligible for the Military Cross, and the grant of special money allowances to

Recognition of the services of the Indian Army.

accompany this decoration has been sanctioned. The grant of supernumerary appointments in the Order of British India has been approved, the scale of allowances attached to the Indian Order of Merit has been increased, and the Indian distinguished service medal has been opened to non-combatants. Those, however, who have been in close touch with the Indian soldier in the field know what his home and village mean to him, and how no recognition of his devotion can be devised which will be so grateful to him as measures which will secure him an exemption from land revenue or a grant of land, security of tenure or protection against his landlord or money-lender. Accordingly the Government of India has at present under its consideration proposals for bestowing land grants, or equivalent rewards, to those who have rendered specially distinguished service. If opportunities of colonization outside India are forthcoming after the war, we believe that many Indian soldiers would take advantage of them; and we would urge upon His Majesty's Government that their claims in this respect should be favourably considered. Two other schemes deserve mention. One is the establishment as a permanent memorial to the services of the Indian army of a school for the education of the sons of Indian officers. The other is Queen Mary's Technical School for disabled Indian soldiers, an institution established in Bombay which assists Indian soldiers and followers who have been pensioned as unfit for further service by teaching them a trade so that they will be able to supplement their pensions and to live in comfort. Similar schools will be established in other parts of India. Finally we may mention the Governor General's nomination of an Indian officer to the Indian Legislative Council, which was meant as a recognition of the army's claim to representation in the supreme council of the country.

British commissions for Indians.

330. Long as this list is there remains one item, the importance of which in the eyes of India outweighs all others. British commissions have for the first time been granted to Indian officers. The problem of commissions is one that bristles with difficulties. Government after Government had considered it and found no practical solution, but the war afforded a convenient opportunity for making a definite break with the past, and a beginning that may be fruitful of large consequences has been made. The announcement of His Majesty's Government that "the bar which has hitherto prevented the admission of Indians to commissioned rank in His Majesty's army should be removed" has established the principle that the Indian soldier can earn the King's commission by his military conduct. It is not enough merely to assert a principle. We must act on it. The services of the Indian army in the war and the great increase in its numbers make it necessary that a considerable number of commissions should now be given. The appointments made have so far been few. Other methods of appointment have not yet been decided on, but we are impressed with the necessity of grappling with the problem. We also wish to establish the principle that if an Indian is enlisted as a private in

a British unit of His Majesty's army its commissioned ranks also should be open to him. The Indian soldier who fights for us and earns promotion in the field can reasonably ask that his conduct should offer him the same chances as the European beside whom he fights. If he is otherwise qualified race should no more debar him from promotion in the army than it does in the civil services; nor do we believe that it is impossible to carry this principle into effect without sacrificing paramount military considerations. We feel sure that no measures would do so much to stimulate Indian enthusiasm for the war.

(*iii*) INDUSTRIES AND TARIFFS.

Political importance of the economic situation.

331. In the course of our discussions the conviction has been forced upon us that economic factors enter largely into the political situation in India; and we feel bound so far to exceed the limits of strictly constitutional discussions as to take note of these also. There is truth, we think, in words of the late Mr. Ranade spoken as long as 25 years ago:—

"The political domination of one country by another attracts far more attention than the more formidable though unfelt domination, which the capital enterprise and skill of one country exercise over the trade and manufactures of another. This latter domination has an insidious influence which paralyses the springs of all the various activities which together make up the life of a nation."

Weakness of India's economic position.

332. The economics of a country which depends to so great an extent as India on agriculture must be unstable. Moreover, though as recent inquiries have shown the standard of living among the peasant classes has improved perceptibly of late years, there is still no great margin of taxable capacity. The people are poor; and their poverty raises the question whether the general level of well-being could not be materially raised by the development of industries. It is also clear that the lack of outlet for educated youth is a serious misfortunate which has contributed not a little in the past to political unrest in Bengal. But perhaps an even greater mischief is the discontent aroused in the minds of those who are jealous for India by seeing that she is so largely dependent on foreign countries for manufactured goods. They noted that her foreign trade was always growing, but they also saw that its leading feature continued to be the barter of raw materials valued at relatively low prices for imported manufactures, which obviously afforded profits and prosperity to other countries industrially more advanced. Patriotic Indians might well ask themselves why these profits should not accrue to their country; and also why so large a portion of the industries which flourished in the country was financed by European capital and managed by European skill.

Indian suspicions.

333. Some such complaints began to mingle with the criticism of Government that made itself heard during the time of Lord Curzon's administration; and as it progressed the movement in favour of an indus-

trial revival tended steadily to assume more of a political colour. The fact that India's foreign trade was largely with the United Kingdom gave rise to a suspicion that her industrial backwardness was positively encouraged in the interests of British manufactures, and the maintenance of the excise duty on locally manufactured cotton goods in the alleged interests of Lancashire is very widely accepted as a conclusive proof of such a purpose. On a smaller scale, the maintenance of a Stores Department at the India Office is looked on as an encouragement to the Government to patronize British at the expense of local manufactures. In 1905 there was instituted as a bye-product of the National Congress an annual industrial conference, which had the result of linking the movement towards industrial independence more closely with politics; and the fact that Government officials were allowed and even encouraged to assist the conference failed to compensate for the lack of a more striking manifestation of Government's good-will.

Need for Government action.

334. In the days of the Company the commercial development of the country was naturally fostered as a matter of business. But the later attitude of Government towards the promotion of industries has been greatly affected by *laissez faire* doctrines and fear of State competition with private enterprise. As the desirability of industrial expansion became clearer, the Government of India fully shared the desire of Indian leaders to secure the economic advantages that would follow the local manufacture of raw products. We have observed elsewhere that English theories as to the appropriate limits of the State's activity are inapplicable to India. We believe that this is true in the case of industries: and that if the resources of the country are to be developed the Government must take action.

The 'swadeshi' movement and the boycott.

335. Economic discontents definitely merged in political agitation over the partition of Bengal. The *swadeshi* movement was the positive, and the boycott the negative expression of the same purpose. The advanced politicians took up and tried to put in practice the ideas for new developments promoted by the newly-instituted industrial conference, while at the same time they encouraged or countenanced the boycott, which had been adopted in the hope of bringing pressure to bear on manufacturing opinion at Home in favour of the annulment of the partition. These events synchronized with Japan's defeat of Russia, an event which dazzled the imagination of many young educated Indians. In Japanese progress and efficiency they thought they saw an example of what could be effected by an Asiatic nation free of foreign control. Many students helped by scholarships granted by patriotic persons or associations hurried to Japan for technical and industrial training. Many of them returned to take part in the *swadeshi* movement of the years 1907 to 1909. Numerous small factories for making matches, hosiery, pencils, cutlery and the like were started, and many collapsed through some or all of the many ways of breakdown, which

must be expected when patriotism is called upon to make good the want of business experience and hard practical training. We are informed that the cause of failure generally was not so much the lack of some degree of technical knowledge as inability to apply it under commercial conditions.

Reasons for a forward policy.

336. The ineffective attempt to boycott British goods and the losses and disappointments occasioned by the failures of indigenous enterprises started with high hopes and inspiring motives, were followed by the more serious failures of Indian banks in the Punjab and Bombay. Side by side with this went on the steady progress of enterprises under British control, and a marked expansion of foreign trade. We feel no surprise that there remained a feeling of bitterness among the advanced party. But the moral of these disastrous adventures is one for all parties to read. The people have recognized their inability to carry out their own programme without the help and guidance of Government; and they confine themselves for the most part to pressing their claims for State assistan and for a policy of tariff discrimination against foreign imports. Public opinion has expressed itself again and again in the councils, on the platform and in the press. Moreover, the war has created a new position. The prohibition of imports from enemy countries was welcomed as giving India an opportunity, in spite of the difficulties which beset it, of replacing foreign articles by home products. After the war the need for industrial development will be all the greater unless India is to become a mere dumping-ground for the manufactures of foreign nations which will then be competing all the more keenly for the markets on which their political strength so perceptibly depends. India will certainly consider herself entitled to claim all the help that her Government can give her to enable her to take her place as a manufacturing country; and unless the claim is admitted it will surely turn into an insistent request for a tariff which will penalize imported articles without respect of origin. On all grounds a forward policy in industrial development is urgently called for, not merely to give India economic stability; but in order to satisfy the aspirations of her people who desire to see her stand before the world as a well-poised, up-to-date country; in order to provide an outlet for the energies of her young men who are otherwise drawn exclusively to Government service or a few overstocked professions; in order that money now lying unproductive may be applied to the benefit of the whole community; and in order that the too speculative and literary tendencies of Indian thought may be bent to more practical ends, and the people may be better qualified to shoulder the new responsibilities which the new constitution will lay upon them. These considerations led Lord Hardinge's Government to recommend the appointment of the Industrial Commission which is at present sitting.

Military value of economic development.

337. These are political considerations peculiar to India itself. But both on economic and military grounds Imperial interests also demand that the natural resources of India should henceforth

be better utilized. We cannot measure the access of strength which an industrialized India will bring to the power of the Empire; but we are sure that it will be welcome after the war. Mere traders with an outlook of less than a generation ahead may be disposed to regard each new source of manufacture as a possible curtailment of their established sources of profit. But each new acquisition of wealth increases the purchasing power of the whole, and changes in the configuration of trade that disturb individuals must be accompanied by a total increase in its value which is to the good of the whole. Meanwhile the war has thrown a strong light on the military importance of economic development. We know that the possibility of sea communications being temporarily interrupted forces us to rely on India as an ordnance base for protective operations in Eastern theatres of war. Nowadays the products of an industrially developed community coincide so nearly in kind though not in quantity with the catalogue of munitions of war that the development of India's natural resources becomes a matter of almost military necessity. We believe that this consideration also is not a matter of indifference to India's political leaders; and that they are anxious to see India self-supporting in respect of military requirements.

Difficulties and potentialities.

338. We are agreed therefore that there must be a definite change of view; and that the Government must admit and shoulder its responsibility for furthering the industrial development of the country. The difficulties by this time are well-known. In the past and partly as a result of recent *swadeshi* experiences, India's capital has not generally been readily available; among some communities at least there is apparent distaste for practical training, and a comparative weakness of mutual trust; skilled labour is lacking, and although labour is plentiful, education is needed to inculcate a higher standard of living and so to secure a continuous supply; there is a dearth of technical institutions; there is also a want of practical information about the commercial potentialities of India's war products. Though these are serious difficulites they are not insuperable; but they will be overcome only if the State comes forward boldly as guide and helper. On the other hand there are good grounds for hope. India has great natural resources, mineral and vegetable. She has furnished supplies of manganese, tungsten, mica, jute, copra, lac, etc., for use in the war. She has abundant coal, even if its geographical distribution is uneven; she has also in her large rivers ample means of creating water-power. There is good reason for believing that she will greatly increase her output of oil. Her forest wealth is immense and much of it only awaits the introduction of modern means of transport, a bolder investment of capital, and the employment of extra staff; while the patient and laborious work of conservation that has been steadily proceeding, joined with modern scientific methods of improving supplies and increasing output, will yield a rich harvest in future. We have been assured that Indian capital will be forthcoming once it is realized that it

can be invested with security and profit in India; a purpose that will be furthered by the provision of increased facilities for banking and credit. Labour, though abundant, is handicapped by still pursuing uneconomical methods, and its output would be greatly increased by the extended use of machinery. We have no doubt that there is an immense scope for the application of scientific methods. Conditions are ripe for the development of new and for the revival of old industries on European lines; and the real enthusiasm for industries, which is not confined to the ambitions of a few individuals but rests on the general desire to see Indian capital and labour applied jointly to the good of the country, seems to us of the happiest augury.

Need for technical development.

339. Many Indians point to the examples of Germany and Japan, and urge that the Government should make up by financial subsidies the ground which has been lost by what they regard as State indifference: and such considerations are doubtless an element in the general desire for greater control over the finances such as our proposals will give them. The extent and form of State assistance will be questions to be determined by the reformed governments of the future, with the advice of the Industrial Commission before them, and with due reference to Imperial interests. But if the speculative element in Government activities is to be minimised, we feel no doubt that there must be a marked expansion of the technical services of the country. The policy of appointing scientific officers to the agricultural services has been attended with a measure of financial success that certainly suggests that opportunities have been lost through the neglect of other industries which are still backward. We are advised, for instance, that tanning, glass-making, soap-making, sugar-refining and the manufacture of a great variety of vegetable dyes, drugs and essential oils are instances of industries which are now pursued on primitive lines and which present obvious opportunities for the application of technical science. The old metallurgical and chemical industries of the country, which have fallen even more completely into decay through the importation of foreign articles, also offer opportunities for profitable investment on a large scale if conducted on modern lines.

Proposals of the Industrial Commission.

340. The Industrial Commission has not yet submitted its report. But we understand that it is likely to lay stress on a substantial increase in the scientific and technical services of the country and their organization under a separate department of the Government of India, whose business would bring it into close relations at various points with the Department of Commerce, the Army Department, the Department of Education and the Finance Department. We understand that it is suggested that the new Department should control the purchase of Government stores and the administration of ordnance factories, and thereby be brought into active touch with industrial development all over the country. We do not wish to anticipate discussion of the Commission's proposals. But we may

say that our own inquiry leads us to believe that there are many questions of importance waiting to be taken up by a new agency, and sufficiently related to each other to form the matter for a new administrative unit. We believe that they are also regarded by the public as sufficiently important to be separately recognized. It has been left for the war to bring out fully the need for advance in the industrial sphere as in the sphere of politics. But in any case we can see no reason for hesitating to move forward boldly in a matter in respect of which considerations of military security, political expediency, and economic advantage are coincident, and are in agreement also with the interests of the Empire as a whole.

Fiscal policy.

341. Connected intimately with the matter of industries is the question of the Indian tariff. This subject was excluded from the deliberations of the Industrial Commission now sitting because it was not desirable at that juncture to raise any question of the modification of India's fiscal policy; but its exclusion was none the less the object of some legitimate criticism in India. The changes which we propose in the Government of India will still leave the settlement of India's tariff in the hands of a Government amenable to Parliament and the Secretary of State; but inasmuch as the tariff reacts on many matters which will henceforth come more and more under Indian control, we think it well that we should put forward for the information of His Majesty's Government the views of educated Indians upon this subject. We have no immediate proposals to make; we are anxious merely that any decisions which may hereafter be taken should be taken with full appreciation of educated Indian opinion.

Desire for a protective tariff.

342. The theoretical free trader, we believe, hardly exists in India at present. As was shown by the debates in the Indian Legislative Council in March 1913, educated Indian opinion ardently desires a tariff. It rightly wishes to find another substantial base than that of the land for Indian revenues, and it turns to a tariff to provide one. Desiring industries which will give him Indian-made clothes to wear and Indian-made articles to use, the educated Indian looks to the example of other countries which have relied on tariffs, and seizes on the admission of even free traders that for the nourishment of nascent industries a tariff is permissible. We do not know whether he pauses to reflect that these industries will be largely financed by foreign capital attracted by the tariff, although we have evidence that he has not learned to appreciate the advantages of foreign capital. But whatever economic fallacy underlies his reasoning, these are his firm beliefs; and though he may be willing to concede the possibility that he is wrong, he will not readily concede that it is our business to decide the matter for him. He believes that as long as we continue to decide for him we shall decide in the interests of England and not according to his wishes; and he points to the debate in the House of Commons on the differentiation of the cotton excise in support of his contention. So long as the people who refuse India protection are interested in

manufactures with which India might compete, Indian opinion cannot bring itself to believe that the refusal is disinterested or dictated by care for the best interests of India. This real and keen desire for fiscal autonomy does not mean that educated opinion in India is unmindful of Imperial obligations. On the contrary it feels proud of, and assured by, India's connexion with the Empire, and does not desire a severance that would mean cutting the ties of loyalty to the Crown, the assumption of new and very heavy responsibilities, and a loss of standing in the world's affairs. Educated Indians recognize that they are great gainers by the Imperial connexion, and they are willing to accept its drawbacks. They recognize that the question of a tariff may be mainly, but is not wholly, a matter of domestic politics.

Method of deciding the question.

343. We could not conclude our discussion of India's industrial development without some statement of what we believe to be the opinion of educated Indians upon this subject. But our inquiry has not been concerned with fiscal questions; and the views expressed upon them have come before us only as the main reason which those who asked for popular control over India's finances gave in support of their request. It is obvious that any tariff that might be framed for India must take account not only of the views of educated Indians but of the probable incidence of the burden of taxation upon the masses of the population. It has been decided by Parliament that the fiscal relations of all parts of the Empire and the rest of the world should be considered after the war, and we assume that this consideration will be by an Imperial Conference on which India will be adequately represented.

(*iv*) The Non-official Community.

The European commercial community.

344. We cannot conclude without taking into due account the presence of a considerable community of non-official Europeans in India. In the main they are engaged in commercial enterprises; but besides these are the missions, European and American, which in furthering education, building up character and inculcating healthier domestic habits have done work for which India should be grateful. There are also an appreciable number of retired officials and others whose working life has been given to India, settled in the cooler parts of the country. When complaints are rife that European commercial interests are selfish and drain the country of wealth which it ought to retain, it is well to remind ourselves how much of India's material prosperity is due to European commerce. It is true that those engaged in commerce mix less than officials with educated Indians, and that may be a reason why the latter do not always recognize their claim on India's consideration. Like commercial people all the world over Englishmen in business in India are frankly uninterested in politics; many of them would readily admit that they have taken insufficient part both in municipal business and the business of government. Our concern, how-

ever, is not so much with the past as with the future. From discussions with them we know that many of them accept the trend of events, and are fully prepared to see Indian political development proceed. India has benefited enormously by her commercial development in European hands: nor is the benefit less because it was incidental and not the purpose of the undertaking. What then are the obligations of the various parties? Clearly it is the duty of British commerce in India to identify itself with the interests of India, which are higher than the interests of any community; to take part in political life; to use its considerable wealth and opportunities to commend itself to India; and having demonstrated both its value and its good intentions, to be content to rest like other industries on the new foundation of government in the wishes of the people. No less is it the duty of Indian politicians to respect the expectations which have been implicity held out; to remember how India has profited by commercial development which only British capital and enterprise achieved; to bethink themselves that though the capital invested in private enterprises was not borrowed under any assurance that the existing form of government would endure, yet the favourable terms on which money was obtained for India's development were undoubtedly affected by the fact of British rule; and to abstain from advocating differential treatment aimed not so much at promoting Indian as at injuring British commerce. Finally it is our duty to reserve to the Government the power to protect any industry from prejudiced attack or privileged competition. This obligation is imposed upon it, if not by history, at least by the duty of protecting capital, credit and indeed property without discrimination.

Mission work.

345. To the missions we would apply the same principle. It is difficult to overestimate the devoted and creative work which missionary money and enterprise are doing in the fields of education, morals and sanitation. Here also we reserve to the Government a power of judgment and of effective intervention. If missionary efforts were to assume a form that aroused widespread alarm in Indian minds, or if orthodox Hindu or Muslim zeal sought to impose disabilities which would lead to India's necessities losing the material and moral benefits which missions afford, we should hold it to be the duty of the Government which is responsible to Parliament to step in and apply the remedy.

The Anglo-Indian community.

346. Some reference is needed also to the case of the large Anglo-Indian or Eurasian community which on historic grounds has a strong claim on the consideration of the British Government. It is not easy for them, occupying as they do an intermediate position between the races of the East and West, to win for themselves by their own unaided enterprise a secure position in the economy of India. They have been hitherto to a great extent in political and economic dependence on the Government; and they would not be strong enough to withstand the effect of

changes which omitted to take account of their peculiar situation. We think that Government must acknowledge, and must be given effective power to discharge, the obligation to see that their interests are not prejudicially affected.

(v) Social Relations.

Social relations of Europeans and Indians.

347. Connected with what we have just written is one more topic on which in spite of its undoubted delicacy we are constrained to touch. We have referred already to the differences which divide Hindus and Musulmans: but let us bethink ourselves also of the relations between Europeans and Indians. This matter is vital to our purpose. The successful working of the comparatively complex institutions which we have proposed to set up demands a better spirit of co-operation than can honestly be said to obtain at present. Now existing difficulties are in part, and perhaps in greater measure than is generally perceived, due to definite causes which we believe that our proposals will remove. In so far as Indian dissatisfaction arises from the machinery of government having become out of date; from disappointment at what are wrongly regarded as broken promises; from comparative exclusion from the higher public service; from comparative impotence in the legislative councils; from withholding of responsibility for any portion of the work of government—we hope that in all these respects our reforms will supply the remedy. Further we have done our best to allay grievances that proceed from racial bars or distinctions, from economic discontents, and the like. But no one can ignore the fact that there exist subtler causes of difference unconnected with any specific complaints that the State can remedy. We may speak of them generally as the social grievance; the feeling in the mind of many an educated Indian that neither birth nor brains, enlightenment nor loyalty are regarded by Englishmen in India as making him quite one with themselves. It is happily true that close personal friendships are not uncommon; true that official generally speaking do their best to meet Indians on terms of social equality; true that institutions for promoting social intercourse between the races are increasing and in many instances prospering. But the broad complaint remains, and is an impediment which we would gladly see diminished. In some measure it is due to misunderstanding. The Indian temperament is sensitive and attaches great importance to appearances: it may easily mistake brevity for curtness, and directness for discourtesy. The Englishman often has no natural aptitude for courtliness as India understands it, and values time more highly than the Indian. He has no doubt the defects of his qualities; and yet if he were not what he is he would not have done what he has done. Even with his own people the Englishman is by nature exclusive; he does not disclose his mind to those whom he does not understand; and different habits of thought are a great impediment to understanding. There are thus allowances to be made on

both sides. It is perhaps not easy for the successful and unimaginative Englishman to realize what the rule of another race must mean to patriotic minds, and the great obligation that lies upon him to treat with all possible consideration those whom he has hitherto ruled and whom he is now admitting to a share in the task of ruling. Indians on their part would surely do well to reflect on the differences of thought if not of habit that impose inevitable and perfectly healthy limits to intercourse, if each type is to preserve what is best within it; and to think how natural, indeed how necessary, it is that a small and scattered community of European dwellers in an Asiatic country should nurse among themselves a certain communion of their own.

Mutual obligations.

348. We need not concern ourselves with the exclusiveness which the Indian also shows, though it is a factor that Indians themselves should not overlook. We realize the great difficulties of a problem which State action can do nothing to solve, and which yet has a direct bearing on the public interest. We can only appeal earnestly to those who have the power in their hands to reflect how their use of it, legitimate and natural as it may seem to them, may react upon the happiness of India. If there are Indians who really desire to see India leave the Empire, to get rid of English officers and English commerce, we believe that among their springs of action will be found the bitterness of feeling that has been nurtured out of some manifestation that the Englishman does not think the Indian an equal. Very small seeds casually thrown may result in great harvests of political calamity. We feel that, particularly at the present stage of India's progress, it is the plain duty of every Englishman and woman, official and non-official, in India to avoid the offence and the blunder of discourtesy: and none the less is it incumbent on the educated Indian to cultivate patience and a more generous view of what may very likely be no more than heedlessness or difference of custom. We would like to add a word of appeal to the newspaper press upon both sides. No good is done by harping on the alleged deficiencies of another race. English and Indian papers alike have it in their power greatly to improve relations.

CONCLUSION.

349. We may conveniently now gather up our proposals, so as to present a general picture of the progress which we intend and of the nature and order of the steps to be taken on the road. Our conception of the eventual future of India is a sisterhood of States, self-governing in all matters of purely local or provincial interest, in some cases corresponding to existing provinces, in others perhaps modified in area according to the character and economic interests of their people. Over this congeries of States would preside a central Government, increasingly representative of and responsible to the people of all of them; dealing with matters, both internal and external, of common interest to the whole of India; acting as arbiter in inter-state relations, and representing the interests of all India on equal terms with the self-governing units of the British Empire. In this picture there is a place also for the Native States. It is possible that they too will wish to be associated for certain purposes with the organization of British India in such a way as to dedicate their peculiar qualities to the common service without loss of individuality.

Conception of India's future.

350. But it seems to us axiomatic that there cannot be a completely representative and responsible Government of India on an equal footing with the other self-governing units of the British Commonwealth until the component States whose people it represents and to whom it is responsible, or at least the great majority of them, have themselves reached the stage of full responsible government. Nor even then can we say that the form or the degree of responsibility which will be reached in India will exactly correspond to that attained by the Dominions. The final form of India's constitution must be evolved out of the conditions of India, and must be materially affected by the need for securing Imperial responsibilities. The dominating factor in the intermediate process must be the rate at which the provinces can move towards responsible government. At the same time change obviously cannot be confined to the provinces. In proportion as they become more responsible the control which the Government of India exercises over them must diminish. But it is not merely a question of the extent of the control; the nature and manner of its exercise must in course of time be modified. We cannot think that States on the way to responsible government, which have imbibed a large element of responsibility into their constitutions, can be controlled by a purely autocratic power. So also with the duties extending over the whole of India which will be discharged by the Government of India as its special concern. It is impossible that while other duties which differ from them mainly in being local in scope or subject to provincial differentiation are being administered by responsible governments, those which fall to the Government of

Changes in the control by the Government of India.

India should be administered autocratically. It follows, therefore, that change in the provinces implies change in the Government of India, but it does not imply that the change should be simultaneous or in equal proportion. On the contrary the change need simply be so much as to render the Government of India a suitable instrument for controlling the provinces at the stage at which they have for the time being arrived.

351. Similarly all movement towards responsible government in India implies a corresponding change in the constitution of the controlling agency in England. We cannot predict what kind of agency India will wish to maintain in London once she has attained the status of full partnership in the Empire; but it must be very different from the existing arrangements. These are based upon complete control by Parliament through the Secretary of State over every phase of administration in India. The Secretary of State is advised, and to some extent controlled, in the exercise of his functions by a Council designed to supply defects of direct knowledge and experience of India in himself and his subordinates in the India Office; and also to watch the interests of India in cases where these may be threatened by competing British interests. Both Secretary of State and Council, however, are in almost complete subordination to Parliament which may, if it chooses, exercise its authority over every detail of administration in India. Now in relation to India Parliament will, we imagine, observe the principles long adopted towards the British self-governing colonies, and will contract its interference and control in direct proportion to the expansion of self-government. As this grows, the volume of business in which Parliament will interfere will steadily shrink, and the occasions will be rarer on which the Secretary of State will have to exercise control and will need to be advised regarding its exercise. This points to a diminution in the establishment of the India Office and possibly to a modification in the Council of India. But here, again, it is a question not merely of the volume of work but also of the spirit in which it is conducted. In dealing with organizations which have become largely representative and in some degree responsible, the need for mutual understanding and action strengthened by consent will be continually enhanced.

And by the India Office.

352. Again, while the growth of responsibility in India will lead to decreased intervention by the Secretary of State and Parliament in day-to-day administration, the fact that India's further political progress is to be determined by Parliament makes it imperative that Parliament should be better informed about and more keenly interested in Indian conditions. The decisions to be taken in the future must to some extent be controversial; different advice about them will be offered from different sources; and Parliament which is the final arbiter of India's destiny should be in a position to form a wise and independent judgment. For these reasons we have suggested means of improving its opportunities of exercising a well-informed control.

And by Parliament.

353. We conclude therefore that change in any one portion of the Indian polity will involve changes on parallel lines but by no means at an equal pace in the other portions: and we claim that our proposals satisfy this fundamental principle. We begin with a great extension of local self-government so as to train the electorates in the matters which they will best understand. Simultaneously we provide for a substantial measure of self-government in the provinces and for better representation and more criticism in the Government of India and for fuller knowledge in Parliament. And we suggest machinery by means of which at regular stages the element of responsibility can be continuously enlarged and that of official control continuously diminished, in a way that will guarantee ordered progress and afford an answer to intermediate representations and agitation.

Review of proposals.

354. In a matter of so great intricacy and importance it is obvious that full and public discussion is necessary. Pledges have been given that the opportunity for such discussion will be afforded. All that we ask therefore of His Majesty's Government for the present is that they will assent to the publication of our report. As we have said already, because it contemplates transitional arrangements, it is open to the criticisms which can always be effectively directed against all such plans. Hybrid executives, limited responsibility, assemblies partly elected and partly nominated, divisions of functions, reservations general or particular, are devices that can have no permanent abiding place. They bear on their faces their transitional character; and they can be worked only if it is clearly recognized that that is their justification and their purpose. They cannot be so devised as to be logical. They must be charged with potentialities of friction. Hope of avoiding mischief lies in facing the fact that they are temporary expedients for training purposes, and in providing that the goal is not merely kept in sight but made attainable, not by agitation but by the operation of machinery inherent in the scheme itself. The principle laid down was the progressive realization of responsible government. We have chosen the province as the unit in which it should be realized. Within that unit we intend, so far as is possible, immediate and complete responsibility in local affairs: responsibility within provincial governments in certain subjects, first to constituencies and then to the legislative councils; the reservation of other matters to a part of the executive Government whose responsibility to Parliament shall for the time being continue; a machinery for periodic inquiry with a view to the progressive diminution and eventual disappearance of the reserved subjects. We recommend no alteration at present in the responsibility of the Government of India to Parliament—except in so far as the transfer of subjects to popular control in the provinces *ipso facto* removes them from the purview of the Government of India and the Secretary of State—but we do provide greater opportunities for criticizing and influencing the actions of the Government of India, and also a legislature which can develop when the

Need for criticism.

day of responsibility comes into the machinery adapted to the new motive power. For these temporary purposes we have selected after a prolonged examination of alternatives what seemed to us the best transitional mechanism. Our proposals can only benefit by reasoned criticism both in England and India, official and non-official alike. They should be examined by the local Governments with whom we conferred but before whom we have not had an opportunity of placing them in their final form.

Acknowledgments.

355. We desire to express our warmest thanks for the assistance which we have everywhere received. From official and non-official alike of all races we found acceptance of the announcement upon which our work was based, and a whole-hearted desire to assist us in carrying it out. It is difficult where we have received so much help to particularize, but we would pay our special thanks to the Government of India and the local Governments; to the Earl of Donoughmore, Sir William Duke, Mr. Basu, Mr. Charles Roberts, M.P., and Mr. Seton who were associated with the Secretary of State; to Sir William Vincent, who for some months was placed on special duty to assist him. All of these played an invaluable part in the elaboration of our proposals. Our special thanks are also due to Mr. Marris, who has earned our warm appreciation and gratitude by the valuable services which he has rendered, especially by assisting us in the task of drafting this report.

Conclusion.

356. We have only one more word to say. If anything could enhance the sense of responsibility under which our recommendations are made in a matter fraught with consequences so immense, it would be the knowledge that even as we bring our report to an end far greater issues still hang in the balance upon the battle fields of France. It is there and not in Delhi or Whitehall that the ultimate decision of India's future will be taken. The liberty of the world must be won before our deliberations over the liberalizing of Indian political institutions can acquire any tangible meaning. We cannot close this document more fittingly than with the prayer, which we know all India echoes, that the principles of justice and freedom may be saved to the world by the splendid endurance and self-sacrifice of His Majesty's and the Allied armies.

EDWIN S. MONTAGU. CHELMSFORD.

SIMLA;
April 22, 1918.

Appendices

Appendix I.

SUMMARY OF RECOMMENDATIONS.

[This summary is intended only to be a concise indication of the proposals; and it should be read with the paragraphs of the report which are noted in the margin.]

PARLIAMENT AND THE INDIA OFFICE.

	Para.
1. The control of Parliament and the Secretary of State to be modified.	291, 292
2. The salary of the Secretary of State for India to be transferred to the Home Estimates.	294
3. The House of Commons to be asked to appoint a select committee for Indian affairs.	295
4. A committee to be appointed to examine and report on the present constitution of the Council of India and on the India Office establishment.	293

THE GOVERNMENT OF INDIA.

5. The Government of India to preserve indisputable authority on matters adjudged by it to be essential in the discharge of its responsibilities for peace, order, and good government.	266
6. A Privy Council for India to be established	287

The Executive.

7. To increase the Indian element in the Governor General's Executive Council.	272
8. To abolish the present statutory maximum for the Executive Council and the statutory qualification for seats.	271
9. To take power to appoint a limited number of members of the legislature to a position analogous to that of parliamentary under-secretaries in Great Britain.	275

The Legislature.

10. To replace the present Legislative Council of the Governor General by a Council of State and a Legislative Assembly.	273-278
11. The Council of State to consist of 50 members (exclusive of the Governor General, who will be president, with power to nominate a vice-president). Of the members 21 to be elected and 29 nominated by the Governor General. Of the nominated members 4 to be non-officials and not more than 25 (including the members of the Executive Council) to be officials.	277
The life of each Council of State to be 5 years	278
The Governor General in Council to frame regulations as to the qualifications for membership of the Council of State.	278
12. The Legislative Assembly to consist of about 100 members, of whom two-thirds to be elected and one-third nominated. Of the nominated members not less than one-third to be non-officials.	273
The president of the assembly to be nominated by the Governor General.	275

Para.

13. Official members of the Council of State to be eligible also for nomination to the Legislative Assembly. 277

14. The Governor General to have power to dissolve either the Council of State or the Legislative Assembly. 283

15. The following procedure to be adopted for legislation ... 279—282

A. Government Bills: ordinarily to be introduced and carried through the usual stages in the assembly, and if passed by the assembly to be sent to the Council of State. If the Council of State amend the Bill in a manner which is unacceptable to the assembly, the Bill to be submitted to a joint session of both Houses, unless the Governor General in Council is prepared to certify that the amendments introduced by the council are essential to the interests of peace and order or good government (including in this term sound financial administration), in which case the assembly not to have power to reject or modify such amendments. But in the event of leave to introduce being refused or the Bill being thrown out at any stage the Governor General in Council to have the power, on certifying that the Bill is within the formula cited above, to refer it *de novo*, to the Council of State. The Governor General in Council also to have the power in cases of emergency so certified to introduce the Bill in the first instance in, and to pass it through, the Council of State, merely reporting it to the assembly. 279

B. Private Bills: to be introduced in the chamber of which the mover is a member and on being passed by that chamber to be submitted to the other. Differences of opinion between the chambers to be settled by means of joint sessions. If, however, a Bill emerge from the assembly in a form which the Government think prejudicial to good administration, the Governor General in Council to have power to certify it in the terms already cited and to submit or resubmit it to the Council of State, the Bill only to become law in the form given it by the council. 280

16. Resolutions to have effect only as recommendations ... 284

17. The Governor General and the Crown to retain their respective powers of assent, reservation, or disallowance. 283

18. The Governor General to retain his existing power of making Ordinances and the Governor General in Council his power of making Regulations. 276, 283

19. Nominated official members of the Council of State or the Legislative Assembly to have freedom of speech and vote except when Government otherwise directs. 275

20. Any member of the Council of State or the Legislative Assembly to be entitled to ask supplementary questions. The Governor General not to disallow a question on the ground that it cannot be answered consistently with the public interest, but power to be retained to disallow a question on the ground that the putting of it is inconsistent with the public interest. 236, 286

21. Rules governing the procedure for the transaction of business in the Council of State and the Legislative Assembly to be made in the first instance by the Governor General in Council. The Legislative 286

Para.

Assembly and the Council of State to be entitled to modify their rules, subject to the sanction of the Governor General. In each case such modifications not to require the sanction of the Secretary of State in Council and not to be laid before Parliament.

22. Joint standing committees of the Council of State and the Legislative Assembly to be associated with as many departments of Government as possible. The Governor General in Council to decide with which departments standing committees can be associated, and the head of the department concerned to decide what matters shall be referred to the standing committee. Two-thirds of each standing committee to be elected by ballot by the non-official members of the Legislative Assembly and the Council of State, one-third to be nominated by the Governor General in Council. — 285

The Provinces.

23. The provincial Governments to be given the widest independence from superior control in legislative, administrative, and financial matters which is compatible with the due discharge of their own responsibilities by the Government of India. — 189

24. Responsible government in the provinces to be attained first by the devolution of responsibility in certain subjects called hereafter the transferred subjects (all other subjects being called reserved subjects), and then by gradually increasing this devolution by successive stages until complete responsibility is reached. — 215, 218, 219, 238, 260

Provincial Executives.

25. The executive Government in a province to consist of a Governor and Executive Council, a minister or ministers nominated by the Governor from the elected members of the Legislative Council, and an additional member or members without portfolios. — 214, 218, 220

26. The Executive Council to consist of two members, one of whom will be an Indian. — 218

Reserved subjects to be in the charge of the Governor and the members of the Executive Council. — 218

27. The minister or ministers to be appointed for the term of the Legislative Council, and to have charge of the transferred subjects. — 218, 219

28. The additional member or members to be appointed by the Governor from among his senior officials for purposes of consultation and advice only. — 220

29. The Government thus constituted to deliberate generally as a whole, but the Governor to have power to summon either part of his Government to deliberate with him separately. Decisions on reserved subjects and on the supply for them in the provincial budget to rest with the Governor and his Executive Council; decisions on transferred subjects and the supply for them with the Governor and the ministers. — 219, 221

30. Power to be taken to appoint a limited number of members of the Legislative Council to a position analogous to that of parliamentary under-secretaries in Great Britain. — 224

Provincial Legislatures.

31. In each province an enlarged Legislative Council with a substantial elected majority to be established. The council to consist of (1) members elected on as broad a franchise as possible, (2) nominated, — 225, 232, 233

Para.

including (*a*) official, and (*b*) non-official, members, and (3) ex-officio members. The franchise and the composition of the Legislative Council to be determined by regulations to be made on the advice of the committee described in paragraph 53 by the Governor General in Council, with the sanction of the Secretary of State, and laid before Parliament.

32. The Governor to be president of the Legislative Council, with power to appoint a vice-president. 236

33. The Governor to have power to dissolve the Legislative Council. 254

34. Resolutions (except on the budget) to have effect only as recommendations. 237

35. Nominated official members to have freedom of speech and vote, except when Government otherwise directs. 233

36. Any members of the Legislative Council to be entitled to ask supplementary questions. 236

37. The existing rules governing the procedure for the transaction of business to continue, but the Legislative Council to have power to modify them, with the sanction of the Governor. 236

38. Standing committees of the Legislative Council to be formed and attached to each department, or to groups of departments. These committees to consist of members elected by the Legislative Council, of the heads of the departments concerned, and the member or minister, who would preside. 235

39. Legislation on all subjects normally to be passed in the Legislative Council. Exceptional procedure is provided in the succeeding paragraphs. 252

40. The Governor to have power to certify that a Bill dealing with reserved subjects is essential either for the discharge of his responsibility for the peace or tranquillity of the province, or of any part thereof, or for the discharge of his responsibility for reserved subjects. The Bill will then, with this certificate, be published in the *Gazette*. It will be introduced and read in the Legislative Council, and, after discussion on its general principles, will be referred to a grand committee; but the Legislative Council may require the Governor to refer to the Government of India, whose decision shall be final, the question whether he has rightly decided that the Bill which he has certified was concerned with a reserved subject. 252

The Governor not to certify a Bill if he is of opinion that the question of the enactment of the legislation may safely be left to the Legislative Council.

41. The grand committee (the composition of which may vary according to the subject matter of the Bill) to comprise from 40 to 50 per cent of the Legislative Council. The members to be chosen partly by election by ballot, partly by nomination. The Governor to have power to nominate a bare majority (in addition to himself), but not more than two-thirds of the nominated members to be officials. 252

42. The Bill as passed in grand committee to be reported to the Legislative Council, which may again discuss it generally within such time-limits as may be laid down, but may not amend it, except on the motion of a member of the Executive Council, or reject it. After such discussion the Bill to pass automatically, but during such discussion the Legislative Council may record by resolution any objection felt to the principle or details and any such resolution to be transmitted, with the Act, to the Governor General and the Secretary of State. 253

Para.

43. Any member of the Executive Council to have the right to challenge the whole, or any part, of a Bill on its introduction, or any amendment, when moved, on the ground that it trenches on the reserved field of legislation. The Governor to have the choice then either of allowing the Bill to proceed in the Legislative Council, or of certifying the Bill, clause, or amendment. If he certifies the Bill, clause, or amendment the Governor may either decline to allow it to be discussed, or suggest to the Legislative Council an amended Bill or clause, or at the request of the Legislative Council refer the Bill to a grand committee. — 254

44. All provincial legislation to require the assent of the Governor and the Governor General and to be subject to disallowance by His Majesty. — 254

45. The veto of the Governor to include power of return for amendment. — 254

46. The Governor General to have power to reserve provincial Acts. — 254

Finance.

47. A complete separation to be made between Indian and provincial heads of revenue. — 200, 201

48. Provincial contributions to the Government of India to be the first charge on provincial revenues. — 206, 256

49. Provincial Governments to have certain powers of taxation and of borrowing. — 210, 211

50. The budget to be laid before the Legislative Council. If the Legislative Council refuses to accept the budget proposals for reserved subjects the Governor in Council to have power to restore the whole, or any part, of the original allotment on the Governor's certifying that, for reasons to be stated, such restoration is in his opinion essential either to the peace or tranquillity of the province, or any part thereof, or to the discharge of his responsibility for reserved subjects. Except in so far as he exercises this power, the budget to be altered so as to give effect to resolutions of the Legislative Council. — 256

Local self-government.

51. Complete popular control in local bodies to be established as far as possible. — 188

Modification of provincial constitutions.

52. Five years after the first meeting of the new councils the Government of India to consider any applications addressed to it by a provincial Government or a provincial Legislative Council for the modification of the list of reserved and transferred subjects. In such cases the Government of India, with the sanction of the Secretary of State, to have power to transfer any reserved subject, or in case of serious maladministration to remove to the reserved list any subjects already transferred and to have power also to order that the salary of the ministers shall be specifically voted each year by the Legislative Council. The Legislative Council to have the right of deciding at the same, or any subsequent, time by resolution that such salary be specifically voted yearly. — 260

Para.

PRELIMINARY ACTION.

53. A committee to be appointed, consisting of a chairman appointed from England, an official, and an Indian non-official. This committee to advise on the question of the separation of Indian, from provincial, functions, and to recommend which of the functions assigned to the province should be transferred subjects. An official and an Indian non-official in each province which it is at the time examining to be added to the committee. 238

54. A second committee to be appointed, consisting of a chairman appointed from England, two officials, and two Indian non-officials, to examine constituencies, franchises, and the composition of the Legislative Council in each province, and of the Legislative Assembly. An official and an Indian non-official in each province which it is at the time examining to be added to the committee. 225

55. The two committees to have power to meet and confer ... 238

COMMISSION OF INQUIRY.

56. A commission to be appointed ten years after the first meeting of the new legislative bodies to review the constitutional position both as regards the Government of India and the provinces. The names of the commissioners to be submitted for the approval of Parliament. Similar commissions to be appointed at intervals of not more than twelve years. 261

THE NATIVE STATES.

57. To establish a Council of Princes 306

58. The Council of Princes to appoint a standing committee ... 307

59. The Viceroy in his discretion to appoint a commission, composed of a high court judge and one nominee of each of the parties, to advise in case of disputes between States, or between a State and a local Government or the Government of India. 308

60. Should the necessity arise of considering the question of depriving a Ruler of a State of any of his rights, dignities, or powers, or of debarring from succession any member of his family, the Viceroy to appoint a commission to advise, consisting of a high court judge, two Ruling Princes, and two persons of high standing nominated by him. 309

61. All States possessing full internal powers to have direct relations with the Government of India. 310

62. Relations with Native States to be excluded from transfer to the control of provincial Legislative Councils. 310

63. Arrangements to be made for joint deliberation and discussion between the Council of Princes and the Council of State on matters of common interest. 278, 311

THE PUBLIC SERVICES.

64. Any racial bars that still exist in regulations for appointment to the public services to be abolished. 315

65. In addition to recruitment in England, where such exists, a system of appointment to all the public services to be established in India. 316

66. Percentages of recruitment in India, with definite rate of increase, to be fixed for all these services. 316, 317

	Para.
67. In the Indian Civil Service the percentage to be 33 per cent of the superior posts, increasing annually by 1½ per cent until the position is reviewed by the commission (paragraph 55).	317
68. Rates of pay to be reconsidered with reference to the rise in the cost of living and the need for maintaining the standard of recruitment. Incremental time-scales to be introduced generally and increments to continue until the superior grade is attained. The maximum of ordinary pension to be raised to R6,000, payable at the rate of 1*s*. 9*d*. to the rupee, with special pensions for certain high appointments. Indian Civil Service annuities to be made non-contributory but contributions to continue to be funded. Leave rules to be reconsidered with a view to greater elasticity, reduction of excessive amounts of leave admissible, and concession of reduced leave on full pay. The accumulation of privilege leave up to four months to be considered.	318—321
69. A rate of pay based on recruitment in India to be fixed for all public services, but a suitable allowance to be granted to persons recruited in Europe, or on account of qualifications obtained in Europe, and the converse principle to be applied to Indians employed in Europe.	322

Appendix II.

ILLUSTRATIVE LIST I SHOWING PROVINCIAL SUBJECTS

(Vide *paras. 212, 213, 238, and 240.*)

Subjects.	Remarks.
1. Taxation for provincial purposes.	*Vide* para. 210.
2. Borrowing on sole credit of provincial revenues.	*Vide* para. 211.
3. Financial work on behalf of the Government of India (*e.g.*, collection of income-tax, etc.).	Subject to any restrictions or orders of the Government of India.
4. The appointments, conditions of service, and control of all provincial services.	Subject to any existing privileges enjoyed by those now in service.
5. Maintenance of law and order :	
(*i*) administration of criminal justice, including village courts.	The powers of the Government of India to suspend or remit sentences and the power of the Viceroy to pardon to be maintained. Existing privileges of high courts to be continued. Uniformity to be maintained as regards the codes, Evidence Act, etc.
(*ii*) police, including railway police.	The Director of Central Intelligence to remain under the Government of India.
(*iii*) prisons.	
(*iv*) criminal tribes.	The co-ordination by the Government of India of the work in different provinces requires consideration.
(*v*) working of particular Acts, *e.g.*, incitements to crime, seditious meetings, infanticide, press, arms, European vagrancy.	Legislation to remain with the Government of India : administration to be provincial.
(*vi*) poisons.	
(*vii*) gambling.	
(*viii*) dramatic performances and cinematographs.	
(*ix*) coroners.	

Subjects.	Remarks.
6. Land revenue administration :	
Assessment and collection of land revenue, maintenance and procedure of revenue establishments, maintenance of land records, surveys for revenue purposes, records of rights, special laws regarding land tenures, relations of landholders and tenants, collection of rent, court of wards, encumbered and attached estates, famine, land improvement and agricultural loans, resumption of revenue free grants, diluvion and alluvion, colonization and disposal of Crown lands.	
7. Agriculture :	
Civil veterinary and livestock, diseases of animals, research institutes and demonstration farms, agricultural pests, and industries connected with agriculture.	
8. Forests and forest products.	
9. Fisheries and connected industries ; and river conservancy.	
10. Public Works :	
Roads and buildings, and major and minor irrigation.	
Tramways, light and feeder railways.	So far as powers may be given by the Government of India.
Drainage and embankments.	
11. Education :	
Primary, secondary, colleges, technical, and universities, also reformatories and industrial schools.	Except for universities serving more than one province and some Chiefs' colleges. The case of the Indian Universities Act to be specially considered.
12. Medical and Sanitary :	
Public health, hospitals, dispensaries, leper asylums, Pasteur institutes, sanatoria and matters relating to medical institutions ; intra-provincial pilgrimages.*	* Except for railway arrangements.

Subjects.	Remarks.
13. Local self-government, rural and urban: Provisions for public health, safety, and convenience, constitution of local authorities—municipal rates, taxes, loans, roads, bridges, ferries, tolls, markets, pounds, fairs, exhibitions, parks, open spaces, museums, libraries, art galleries, reading-rooms, building regulations, town-planning, housing improvements, disorderly houses, lodging-houses, sarais, hackney carriages, registration of carts, nuisances, water-supply, prevention of fires, regulations for sale of food and drink, smoke nuisance, disposal of the dead, bathing and washing-places, warehouses, drains and sewers, control of animals, surveys for municipal purposes, advertisements, and anything dealt with in existing municipal or local self-government Acts, and also any matters declared by the Government of India to be included in local self-government.	
14. Franchise, electoral law, organization of constituencies.	*Vide* para. 225. Eventually provincial.
15. Civil justice: Administration, including village courts, legal practitioners, law reports, local Acts and interpretation of local Acts.	
Administrator-General and Official Trustees Acts, management of private trusts, lunacy, registration of deeds and documents.	Power of legislation to remain with the Government of India. Administration to be provincial.
16. Excise: intoxicating liquors and drugs, control of breweries and distilleries.	
17. Scheduled districts: Intra-provincial territorial arrangements.	
18. Land acquisition.	The Government of India Act on the subject to remain, but the advisability of provincial variations to be considered.

Subjects.	Remarks.
19. Industrial matters : Factories, dangerous and offensive trades, inland steam vessels and steam boilers, registration of labour, labour exchanges, provident funds, industrial health insurance, friendly societies, apprenticeships, accident insurance.	As these develop.
Electricity, petroleum, explosives, mines, geological survey for minerals.	
Developments of arts and crafts and local industries.	
20. Co-operative credit.	The power of legislation normally to remain with the Government of India, though amendments to the principal Act might be permissible to the provinces. Administration to be provincial.
21. Business concerns : Banks, insurance and other companies.	The power of legislation to remain with the Government of India. Provinces to have such administrative powers as the Government of India may permit.
22. Government Press : Stationery and printing.	The control of the Government of India over stationery raises the general question of the purchase of supplies.
23. Statistics : Registration of births, deaths, and marriages ; collection of statistics for provincial purposes	Power to secure uniformity to remain with the Government of India.
24. Inter-provincial immigration and emigration.	Subject to the control of the Government of India.
25. Protection of wild birds and animals, and cruelty to animals.	Subject to all-India restrictions.
26. Assessment and recovery of provincial Government demands.	
27. Escheats and unclaimed property.	
28. Management of charitable endowments.	
29. Motor vehicles.	Some Government of India legislation is necessary. Provinces to have powers not conflicting therewith.

ILLUSTRATIVE LIST II SHOWING TRANSFERRED SUBJECTS

(Vide *paras. 212, 213, 238, and 240.*)

Subjects.	Remarks.
1. Taxation for provincial purposes.	
2. Local self-government, rural and urban; *viz.*, provisions for public health, safety, and convenience, constitution of local authorities—municipal rates, taxes, loans, roads, bridges, ferries, tolls, markets, pounds, fairs, exhibitions, parks, open spaces, museums, libraries, art galleries, reading-rooms, building regulations, town-planning, housing improvements, disorderly houses, lodging-houses, sarais, hackney carriages, registrations of carts, nuisances, water-supply, prevention of fires, regulations for sale of food and drink, smoke nuisance, disposal of the dead, bathing and washing-places, warehouses, drains and sewers, control of animals, surveys for municipal purposes, advertisements, and anything dealt with in existing municipal or local self-government Acts, and also any matters declared by the Government of India to be included in local self-government.	The question or reserving to the executive Council the power of suspending defaulting local bodies to be considered.
3. Registration of births, deaths, and marriages, coroners, village courts—civil and criminal—statistics for provincial purposes.	
4. Education: Primary, secondary, and technical.	
5. Medical and sanitary.	
6. Agriculture: Civil veterinary, diseases of animals, etc.	
7. Co-operative credit.	
8. Forests (unclassed and some protected).	
9. Fisheries and connected industries, and river conservancy.	

Subjects.	Remarks.
10. Public Works: Roads and buildings, minor irrigation, tramways, light and feeder railways, drainage and embankments.	
11. Excise: Intoxicating liquors and drugs, including the control of breweries and distilleries.	
12. Charitable endowments.	
13. Development of arts and crafts and local industries.	
14. Miscellaneous subjects, *viz.*, preservation of wild birds and animals, cruelty to animals, prevention of gambling, motor vehicles, registration of deeds and documents.	
15. Franchise, electoral law, constituencies.	Not till after the commission has reported.

SUPPLEMENTARY PAPERS.

1. Letter from the Right Hon'ble the Earl of Donoughmore, Sir William Duke, Mr. B. N. Basu, and Mr. Charles Roberts, to the Secretary of State, dated the 3rd May, 1918.

2. Government of India's despatch no. 6, dated the 31st May 1918.

3. Minute by the Council of India, dated the 18th June 1918.

Supplementary Paper no. 1.

H. M.'s SHIP "DUFFERIN,"

May 3rd, 1918.

DEAR MONTAGU,

YOU have communicated to us who formed part of your mission to India the scheme of Constitutional Reforms proposed in the system of government in British India which has been worked out and agreed upon between His Excellency the Viceroy and yourself.

The scheme is the outcome of discussions in which you have given us the privilege of taking a continuous part and it embodies the conclusions arrived at in those discussions. We need only say therefore that we unitedly support your recommendations and are prepared to recommend their adoption to public opinion both in England and in India. In our view, while safeguarding Imperial interests and providing for the proper maintenance of law and order, they carry out His Majesty's Government's announcement of August 20th last by providing at once for such an instalment of self-government as is at present practicable and safe, together with statutory machinery for its development at subsequent stages.

We would further submit an urgent plea for publication of these proposals as soon as can be arranged. It is impossible now to avoid discussions on Constitutional Reforms in India whatever may be the objection to having such discussions in war time; but we are convinced that there would be serious inconveniences and even risks unless the further discussion of these subjects is guided by regard on the one hand to the substantial measure of reform that is now practicable and on the other to the limits within which reform at this stage must necessarily be confined. We would therefore wish to represent to you our strong view of the desirability of publishing the proposals for consideration both in England and in India without any undue delay.

We have only in conclusion to express to you our sense of the readiness with which you have throughout taken into consideration any suggestions which we have from time to time placed before you and to assure you that if at any later stage we can give any assistance towards the passage of these reforms into law we shall gladly do whatever is in our power.

Yours sincerely,

DONOUGHMORE.

F. W. DUKE.

BHUPENDRA NATH BASU.

CHARLES ROBERTS.

To

THE RIGHT HON'BLE THE SECRETARY OF STATE FOR INDIA

Supplementary Paper no. 2.

No. 6 of 1918.

GOVERNMENT OF INDIA.

HOME DEPARTMENT.

(PUBLIC.)

To

THE RIGHT HON'BLE EDWIN MONTAGU,

His Majesty's Secretary of State for India.

Simla, the 31st May 1918.

SIR,

WE have the honour to inform you that we have been furnished with copies of the Report on Indian Constitutional Reforms drawn up by His Excellency the Viceroy and yourself for submission to His Majesty's Government.

2. Though this most important document represents views for which the signatories thereto are alone responsible we desire to record the fact that it was framed after prolonged discussion with us. There are no doubt detailed recommendations on which some of us hold divergent views but we wish to convey our cordial support to the general policy which the report embodies.

We have the honour to be,

SIR,

Your most obedient, humble Servants,

CHELMSFORD.

C. C. MONRO.

W. S. MEYER.

C. H. HILL.

C. SANKARAN NAIR.

G. R. LOWNDES.

G. S. BARNES.

W. H. VINCENT.

Supplementary Paper no. 3.

Minute recorded by the Council of India.

We have read carefully the Report on Constitutional Reforms in India. This report is the outcome of the announcement made by the Secretary of State on August 20th, 1917, that Government had decided that substantial steps were to be taken as soon as possible towards increasing the association of Indians in every branch of the administration and gradually developing self-governing institutions with a view to the progress of real responsible government in India.

Having these ends in view, the general policy of the report meets with our unanimous support. We are of opinion that on the whole it recommends the measures best adapted to ensure safe and steady progress in the desired direction and, while reserving to ourselves freedom to reconsider the details of the various important measures suggested when public criticism has been received, we heartily support the policy as a whole.

We consider that in connection with the publication of the report the various addresses and schemes put before the Secretary of State in India should be published or, if the bulk of the documents in question is so great as to render a complete reprint undesirable, that a very careful selection should be made from them embodying all shades of opinion.

L. CURRIE.
F. W. DUKE.
M. HAMMICK.
CHARLES S. BAYLEY.
W. D. SHEPPARD.
MARSHALL REID.
E. G. BARROW.
S. AFTAB.
P. D. PATTANI.
BHUPENDRA NATH BASU.

Dated London, June 18, 1918.

Sir Arnold White and Mr. J. B. Brunyate were prevented by ill-health and absence from England respectively from considering the report.

CALCUTTA
SUPERINTENDENT GOVERNMENT PRINTING, INDIA
8, HASTINGS STREET